

IN THE UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

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	:	
In re	:	Chapter 11
	:	
DPH HOLDINGS CORP., <u>et al.</u> ,	:	Case No. 05-44481 (RDD)
	:	
Reorganized Debtors.	:	(Jointly Administered)
	:	
-----	X	

AFFIDAVIT OF SERVICE

I, Darlene Calderon, being duly sworn according to law, depose and say that I am employed by Kurtzman Carson Consultants LLC, the Court appointed claims and noticing agent for the Reorganized Debtors in the above-captioned cases.

On April 13, 2010, I caused to be served the documents listed below (i) upon the parties listed on Exhibit A hereto via overnight mail, (ii) upon the parties listed on Exhibit B hereto via electronic notification, and (iii) upon the parties listed on Exhibit C hereto via postage pre-paid U.S. mail:

- 1) Reorganized Debtors' Supplemental Reply to Responses of Certain Claimants to Debtors' Objections to Proof of Claim Number 11375 Filed by Jeffrey A. Miller, Administrative Expense Claim Number 16925 Filed by Stanley D. Smith, Administrative Expense Claim Numbers 17081 and 18049 Filed by James A. Luecke, Administrative Expense Claim Number 18087 Filed by Frank X. Budelewski, Administrative Expense Claim Number 18604 Filed by Walter A. Kunka, Administrative Expense Claim Number 20017 Filed by Andrew C. Gregos, and Administrative Expense Claim Number 20054 Filed by Robyn R. Budd ("Supplemental Reply Regarding Certain Pension and Benefit Claims") (Docket No. 19809) [a copy of which is attached hereto as Exhibit D]
- 2) Reorganized Debtors' Supplemental Reply to Responses of Certain Claimants to Debtors' Objections to (A) Proofs of Claim Numbers 15584, 15585, 15586, 15587, 15588, and 15595 Filed by Hyundai Motor Company and (B) Proofs of Claim Numbers 15589, 15590, 15591, 15592, 15593, and 15594 Filed by Hyundai Motor America ("Supplemental Reply Regarding Certain Contingent Customer Warranty Claims") (Docket No. 19810) [a copy of which is attached hereto as Exhibit E]
- 3) Reorganized Debtors' Supplemental Reply to Response of Claimant to Debtors' Objection to Proofs of Claim Numbers 5268, 13270, 13838, and 13880 Filed by the UAW ("Supplemental Reply Regarding Certain UAW Claims") (Docket No. 19811) [a copy of which is attached hereto as Exhibit F]

- 4) Reorganized Debtors' Supplemental Reply to Response of Claimant to Debtors' Objection to Administrative Expense Claim Numbers 17094 and 17773 Filed by Sharyl Y. Carter ("Supplemental Reply Regarding Certain Claims of Sharyl Y. Carter") (Docket No. 19812) [a copy of which is attached hereto as Exhibit G]
- 5) Reorganized Debtors' Supplemental Reply to Response of a Certain Claimant to Debtors' Objection to Proof of Claim Number 11892 Filed by Ronald E. Jorgensen ("Supplemental Reply Regarding a Certain Equity Claim") (Docket No. 19813) [a copy of which is attached hereto as Exhibit H]
- 6) Ex Parte Application Under 11 U.S.C. § 107(b) and Fed. R. Bankr. P. 9018 for Order Authorizing Reorganized Debtors to File (I) a Redacted Version of Reorganized Debtors' Supplemental Reply to Responses of Certain Claimants to Debtors' Objections to Proofs of Claim Numbers 14019, 14020, 14022, 14023, 14024, 14025, and 14026 Filed by Atul Pasricha and Proof of Claim Number 12147 Filed by Pamela Geller and (II) Unredacted Versions of (A) the Supplemental Reply and (B) a Certain Agreement Between Debtors and Atul Pasricha Under Seal ("DPH Holdings - Pasricha Sealing Application") (Docket No. 19814) [a copy of which is attached hereto as Exhibit I]
- 7) Notice of Adjournment of Claims Objection Hearing with Respect to Debtors' Objection to (A) Proof of Claim No. 16591 Filed by Bradley A. Bennett and Barbara R. Bennett ("Notice of Adjournment of Sufficiency Hearing as to Bennett Claim") (Docket No. 19815) [a copy of which is attached hereto as Exhibit J]
- 8) Reorganized Debtors' Supplemental Reply to Response of Claimant to Debtors' Objections to Administrative Expense Claim Numbers 16898 and 18740 Filed by Gary L. Cook ("Supplemental Reply Regarding Certain Claims Filed by Gary L. Cook") (Docket No. 19816) [a copy of which is attached hereto as Exhibit K]
- 9) Notice of Rescheduling of Thirty-Second Claims Hearing (Docket No. 19817) [a copy of which is attached hereto as Exhibit L]

On April 13, 2010, I caused to be served the document listed below upon the parties listed on Exhibit M hereto via overnight mail:

- 10) Reorganized Debtors' Supplemental Reply to Responses of Certain Claimants to Debtors' Objections to Proof of Claim Number 11375 Filed by Jeffrey A. Miller, Administrative Expense Claim Number 16925 Filed by Stanley D. Smith, Administrative Expense Claim Numbers 17081 and 18049 Filed by James A. Luecke, Administrative Expense Claim Number 18087 Filed by Frank X. Budelewski, Administrative Expense Claim Number 18604 Filed by Walter A. Kunka, Administrative Expense Claim Number 20017 Filed by Andrew C. Gregos, and Administrative Expense Claim Number 20054 Filed by Robyn R. Budd

("Supplemental Reply Regarding Certain Pension and Benefit Claims") (Docket No. 19809) [a copy of which is attached hereto as Exhibit D]

On April 13, 2010, I caused to be served the document listed below upon the parties listed on Exhibit N hereto via overnight mail:

- 11) Reorganized Debtors' Supplemental Reply to Responses of Certain Claimants to Debtors' Objections to (A) Proofs of Claim Numbers 15584, 15585, 15586, 15587, 15588, and 15595 Filed by Hyundai Motor Company and (B) Proofs of Claim Numbers 15589, 15590, 15591, 15592, 15593, and 15594 Filed by Hyundai Motor America ("Supplemental Reply Regarding Certain Contingent Customer Warranty Claims") (Docket No. 19810) [a copy of which is attached hereto as Exhibit E]

On April 13, 2010, I caused to be served the document listed below upon the parties listed on Exhibit O hereto via overnight mail:

- 12) Reorganized Debtors' Supplemental Reply to Response of Claimant to Debtors' Objection to Proofs of Claim Numbers 5268, 13270, 13838, and 13880 Filed by the UAW ("Supplemental Reply Regarding Certain UAW Claims") (Docket No. 19811) [a copy of which is attached hereto as Exhibit F]

On April 13, 2010, I caused to be served the document listed below upon the party listed on Exhibit P hereto via overnight mail:

- 13) Reorganized Debtors' Supplemental Reply to Response of Claimant to Debtors' Objection to Administrative Expense Claim Numbers 17094 and 17773 Filed by Sharyl Y. Carter ("Supplemental Reply Regarding Certain Claims of Sharyl Y. Carter") (Docket No. 19812) [a copy of which is attached hereto as Exhibit G]

On April 13, 2010, I caused to be served the document listed below upon the party listed on Exhibit Q hereto via overnight mail:

- 14) Reorganized Debtors' Supplemental Reply to Response of a Certain Claimant to Debtors' Objection to Proof of Claim Number 11892 Filed by Ronald E. Jorgensen ("Supplemental Reply Regarding a Certain Equity Claim") (Docket No. 19813) [a copy of which is attached hereto as Exhibit H]

On April 13, 2010, I caused to be served the document listed below upon the parties listed on Exhibit R hereto via overnight mail:

- 15) Ex Parte Application Under 11 U.S.C. § 107(b) and Fed. R. Bankr. P. 9018 for Order Authorizing Reorganized Debtors to File (I) a Redacted Version of Reorganized Debtors' Supplemental Reply to Responses of Certain Claimants to Debtors' Objections to Proofs of Claim Numbers 14019, 14020, 14022, 14023, 14024, 14025, and 14026 Filed by Atul Pasricha and Proof of Claim Number 12147 Filed by Pamela Geller and (II) Unredacted Versions of (A) the Supplemental Reply and (B) a Certain Agreement Between Debtors and Atul Pasricha Under Seal ("DPH Holdings - Pasricha Sealing Application") (Docket No. 19814) [a copy of which is attached hereto as Exhibit I]

On April 13, 2010, I caused to be served the document listed below upon the party listed on Exhibit S hereto via overnight mail:

- 16) Notice of Adjournment of Claims Objection Hearing with Respect to Debtors' Objection to (A) Proof of Claim No. 16591 Filed by Bradley A. Bennett and Barbara R. Bennett ("Notice of Adjournment of Sufficiency Hearing as to Bennett Claim") (Docket No. 19815) [a copy of which is attached hereto as Exhibit J]

On April 13, 2010, I caused to be served the document listed below upon the party listed on Exhibit T hereto via overnight mail:

- 17) Reorganized Debtors' Supplemental Reply to Response of Claimant to Debtors' Objections to Administrative Expense Claim Numbers 16898 and 18740 Filed by Gary L. Cook ("Supplemental Reply Regarding Certain Claims Filed by Gary L. Cook") (Docket No. 19816) [a copy of which is attached hereto as Exhibit K]

On April 13, 2010, I caused to be served the document listed below upon the parties listed on Exhibit U, and on April 14, 2010 upon the parties listed on Exhibit V hereto via overnight mail:

- 18) Notice of Rescheduling of Thirty-Second Claims Hearing (Docket No. 19817) [a copy of which is attached hereto as Exhibit L]

Dated: April 16, 2010

/s/ Darlene Calderon

Darlene Calderon

State of California  
County of Los Angeles

Subscribed and sworn to (or affirmed) before me on this 16th day of April, 2010, by  
Darlene Calderon, proved to me on the basis of satisfactory evidence to be the person who  
appeared before me.

Signature: /s/ Vanessa R. Quiñones

Commission Expires: 3/20/11

# **EXHIBIT A**

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DPH Holdings Corp.  
Master Service List

COMPANY	CONTACT	ADDRESS1	ADDRESS2	CITY	STATE	ZIP	PHONE	FAX	PARTY / FUNCTION
Barnes & Thornburg LLP	Peter A. Clark	One North Wacker Drive	Suite 4400	Chicago	IL	60606-2833	312-214-5668	312-759-5646	Counsel to Recticel Interiors; Motorola; Temic Automotive
Brown Rudnick Berlack Israels LLP	Robert J. Stark	Seven Times Square		New York	NY	10036	212-209-4800	212-2094801	Indenture Trustee
Cohen, Weiss & Simon	Bruce Simon	330 W. 42nd Street		New York	NY	10036	212-356-0231	212-695-5436	
Curtis, Mallet-Prevost, Colt & Mosle LLP	Steven J. Reisman	101 Park Avenue		New York	NY	10178-0061	2126966000	2126971559	Counsel to Flextronics International, Inc.; Flextronics International USA, Inc.; Multek Flexible Circuits, Inc.; Sheldahl de Mexico S.A.de C.V.; Northfield Acquisition Co.; Flextronics Asia-Pacific Ltd.; Flextronics Technology (M) Sdn. Bhd
Davis, Polk & Wardwell LLP	Donald Bernstein Brian Resnick	450 Lexington Avenue		New York	NY	10017	212-450-4092 212-450-4213	212-450-3092 212-450-3213	Counsel to Debtor's Postpetition Administrative Agent; Counsel to JPMorgan Chase Bank, N.A.
Delphi Automotive LLP	Sean Corcoran, Karen Craft	5725 Delphi Drive		Troy	MI	48098	248-813-2000	248-813-2491	
DPH Holdings Corp.	John Brooks	5725 Delphi Drive		Troy	MI	48098	248-813-2143		Reorganized Debtors
Flextronics International	Carrie L. Schiff	305 Interlocken Parkway		Broomfield	CO	80021	303-927-4853	303-652-4716	Counsel to Flextronics International
Flextronics International USA, Inc.	Paul W. Anderson	2090 Fortune Drive		San Jose	CA	95131	408-428-1308		Counsel to Flextronics International USA, Inc.
Fried, Frank, Harris, Shriver & Jacobson	Brad Eric Sheler Bonnie Steingart Jennifer L. Rodburg Richard J. Slivinski	One New York Plaza		New York	NY	10004	212-859-8000	212-859-4000	Counsel to Equity Security Holders Committee
FTI Consulting, Inc.	Randall S. Eisenberg	3 Times Square	11th Floor	New York	NY	10036	212-2471010	212-841-9350	Financial Advisors to Debtors
Groom Law Group	Lonie A. Hassel	1701 Pennsylvania Avenue, NW		Washington	DC	20006	202-857-0620	202-659-4503	Counsel to Employee Benefits
Hodgson Russ LLP	Garry M. Graber	60 East 42nd St	37th Floor	New York	NY	10165-0150	212-661-3535	212-972-1677	Counsel to Hexcel Corporation
Honigman Miller Schwartz and Cohn LLP	Frank L. Gorman, Esq.	2290 First National Building	660 Woodward Avenue	Detroit	MI	48226-3583	313-465-7000	313-465-8000	Counsel to General Motors Corporation
Honigman Miller Schwartz and Cohn LLP	Robert B. Weiss, Esq.	2290 First National Building	660 Woodward Avenue	Detroit	MI	48226-3583	313-465-7000	313-465-8000	Counsel to General Motors Corporation
Internal Revenue Service	Attn: Insolvency Department	477 Michigan Ave	Mail Stop 15	Detroit	MI	48226	313-628-3648	313-628-3602	Michigan IRS
Internal Revenue Service	Attn: Insolvency Department, Maria Valerio	290 Broadway	5th Floor	New York	NY	10007	212-436-1038	212-436-1931	IRS
Jefferies & Company, Inc.	William Q. Derrough	520 Madison Avenue	12th Floor	New York	NY	10022	212-284-2521	212-284-2470	UCC Professional
JPMorgan Chase Bank, N.A.	Richard Duker	270 Park Avenue		New York	NY	10017	212-270-5484	212-270-4016	Prepetition Administrative Agent
JPMorgan Chase Bank, N.A.	Susan Atkins, Gianni Russello	277 Park Ave 8th Fl		New York	NY	10172	212-270-0426	212-270-0430	Postpetition Administrative Agent
Kramer Levin Naftalis & Frankel LLP	Gordon Z. Novod	1177 Avenue of the Americas		New York	NY	10036	212-715-9100	212-715-8000	Counsel Data Systems Corporation; EDS Information Services, LLC
Kramer Levin Naftalis & Frankel LLP	Thomas Moers Mayer	1177 Avenue of the Americas		New York	NY	10036	212-715-9100	212-715-8000	Counsel Data Systems Corporation; EDS Information Services, LLC

COMPANY	CONTACT	ADDRESS1	ADDRESS2	CITY	STATE	ZIP	PHONE	FAX	PARTY / FUNCTION
Kurtzman Carson Consultants	Sheryl Betance	2335 Alaska Ave		El Segundo	CA	90245	310-823-9000	310-823-9133	Noticing and Claims Agent
Law Debenture Trust of New York	Daniel R. Fisher	400 Madison Ave	Fourth Floor	New York	NY	10017	212-750-6474	212-750-1361	Indenture Trustee
Law Debenture Trust of New York	Patrick J. Healy	400 Madison Ave	Fourth Floor	New York	NY	10017	212-750-6474	212-750-1361	Indenture Trustee
McDermott Will & Emery LLP	David D. Cleary	227 West Monroe Street	Suite 5400	Chicago	IL	60606	312-372-2000	312-984-7700	Counsel to Recticel North America, Inc.
McDermott Will & Emery LLP	Jason J. DeJonker	227 West Monroe Street	Suite 5400	Chicago	IL	60606	312-372-2000	312-984-7700	Counsel to Recticel North America, Inc.
McDermott Will & Emery LLP	Mohsin N. Khambati	227 West Monroe Street	Suite 5400	Chicago	IL	60606	312-372-2000	312-984-7700	Counsel to Recticel North America, Inc.
McTigue Law Firm	Cornish F. Hitchcock	5301 Wisconsin Ave. N.W.	Suite 350	Washington	DC	20015	202-364-6900	202-364-9960	Counsel to Movant Retirees and Proposed Counsel to The Official Committee of Retirees
McTigue Law Firm	J. Brian McTigue	5301 Wisconsin Ave. N.W.	Suite 350	Washington	DC	20015	202-364-6900	202-364-9960	Counsel to Movant Retirees and Proposed Counsel to The Official Committee of Retirees
Mesirow Financial	Leon Szlezinger	666 Third Ave	21st Floor	New York	NY	10017	212-808-8366	212-682-5015	UCC Professional
Milbank Tweed Hadley & McCloy LLP	Gregory A Bray Esq Thomas R Kreller Esq James E Till Esq	601 South Figueroa Street	30th Floor	Los Angeles	CA	90017	213-892-4000	213-629-5063	Counsel to Cerberus Capital Management LP and Dolce Investments LLC
New York State Office of Attorney General	Eugene J. Leff	Assistant Attorney General & Deputy Bureau Chief	120 Broadway, 26th Floor	New York	NY	10271	212-416-8465	212-416-6007	State of New York; New York State Department of Environmental Conserveation
Northeast Regional Office	Mark Schonfeld, Regional Director	3 World Financial Center	Room 4300	New York	NY	10281	212-336-1100	212-336-1323	Securities and Exchange Commission
Office of New York State	Attorney General Eliot Spitzer	120 Broadway		New York City	NY	10271	212-416-8000	212-416-6075	New York Attorney General's Office
O'Melveny & Myers LLP	Robert Siegel	400 South Hope Street		Los Angeles	CA	90071	213-430-6000	213-430-6407	Special Labor Counsel
O'Melveny & Myers LLP	Tom A. Jerman, Rachel Janger	1625 Eye Street, NW		Washington	DC	20006	202-383-5300	202-383-5414	Special Labor Counsel
Paul, Weiss, Rifkind, Wharton & Garrison LLP	Stephen J. Shimshak Philip A Weintraub	1285 Avenue of the Americas		New York	NY	10019-6064	212-373-3000	212-757-3990	Counsel to Ryder Integrated Logistics, Inc.
Pension Benefit Guaranty Corporation	Israel Goldowitz	1200 K Street, N.W.	Suite 340	Washington	DC	20005-4026	2023264020	2023264112	Chief Counsel to the Pension Benefit Guaranty Corporation
Pension Benefit Guaranty Corporation	Karen L. Morris, John Menke, Ralph L. Landy, Beth A. Bangert	1200 K Street, N.W.	Suite 340	Washington	DC	20005	202-326-4020	202-326-4112	Counsel to Pension Benefit Guaranty Corporation
Phillips Nizer LLP	Sandra A. Riemer	666 Fifth Avenue		New York	NY	10103	212-841-0589	212-262-5152	Counsel to Freescale Semiconductor, Inc., f/k/a Motorola Semiconductor Systems
Rothchild Inc.	David L. Resnick	1251 Avenue of the Americas		New York	NY	10020	212-403-3500	212-403-5454	Financial Advisor
Seyfarth Shaw LLP	Robert W. Dremluk	620 Eighth Ave		New York	NY	10018-1405	212-218-5500	212-218-5526	Counsel to Murata Electronics North America, Inc.; Fujikura America, Inc.
Shearman & Sterling LLP	Douglas Bartner, Jill Frizzley	599 Lexington Avenue		New York	NY	10022	212-8484000	212-848-7179	Local Counsel to the Reorganized Debtors



COMPANY	CONTACT	ADDRESS1	ADDRESS2	CITY	STATE	ZIP	PHONE	FAX	PARTY / FUNCTION
Skadden, Arps, Slate, Meagher & Flom LLP	John Wm. Butler, John K. Lyons, Ron E. Meisler	155 N Wacker Drive	Suite 2700	Chicago	IL	60606-1720	312-407-0700	312-407-0411	Counsel to the Reorganized Debtor
Skadden, Arps, Slate, Meagher & Flom LLP	Kayalyn A. Marafioti	4 Times Square	P.O. Box 300	New York	NY	10036	212-735-3000	212-735-2000	Counsel to the Reorganized Debtor
Spencer Fane Britt & Browne LLP	Daniel D. Doyle	1 North Brentwood Boulevard	Tenth Floor	St. Louis	MO	63105	314-863-7733	314-862-4656	Counsel to Movant Retirees and Proposed Counsel to The Official Committee of Retirees
Spencer Fane Britt & Browne LLP	Nicholas Franke	1 North Brentwood Boulevard	Tenth Floor	St. Louis	MO	63105	314-863-7733	314-862-4656	Counsel to Movant Retirees and Proposed Counsel to The Official Committee of Retirees
Stahl Cowen Crowley Addis LLC	Jon D. Cohen, Trent P. Cornell	55 West Monroe Street	Suite 1200	Chicago	IL	60603	312-641-0060	312-641-6959	Counsel to the Delphi Retiree Committee
Stevens & Lee, P.C.	Chester B. Salomon, Constantine D. Pourakis	485 Madison Avenue	20th Floor	New York	NY	10022	2123198500	2123198505	Counsel to Wamco, Inc.
Togut, Segal & Segal LLP	Albert Togut	One Penn Plaza	Suite 3335	New York	NY	10119	212-594-5000	212-967-4258	Conflicts Counsel to the Reorganized Debtors
United States Trustee	Brian Masumoto	33 Whitehall Street	21st Floor	New York	NY	10004-2112	212-510-0500	212-668-2255 does not take service via fax	Counsel to United States Trustee
Weil, Gotshal & Manges LLP	Harvey R. Miller	767 Fifth Avenue		New York	NY	10153	212-310-8500	212-310-8077	Counsel to General Motors Corporation
Weil, Gotshal & Manges LLP	Jeffrey L. Tanenbaum, Esq.	767 Fifth Avenue		New York	NY	10153	212-310-8000	212-310-8007	Counsel to General Motors Corporation
Weil, Gotshal & Manges LLP	Martin J. Bienenstock, Esq.	767 Fifth Avenue		New York	NY	10153	212-310-8000	212-310-8007	Counsel to General Motors Corporation
Weil, Gotshal & Manges LLP	Michael P. Kessler, Esq.	767 Fifth Avenue		New York	NY	10153	212-310-8000	212-310-8007	Counsel to General Motors Corporation
Wilmington Trust Company	Steven M. Cimalore	Rodney Square North	1100 North Market Street	Wilmington	DE	19890	302-636-6058	302-636-4143	Creditor Committee Member/Indenture Trustee

## **EXHIBIT B**

COMPANY	CONTACT	ADDRESS1	ADDRESS2	CITY	STATE	ZIP	PHONE	EMAIL	PARTY / FUNCTION
Barnes & Thornburg LLP	Peter A. Clark	One North Wacker Drive	Suite 4400	Chicago	IL	60606-2833	312-214-5668	<a href="mailto:pclark@btlaw.com">pclark@btlaw.com</a>	Counsel to Recticel Interiors; Motorola; Temic Automotive
Brown Rudnick Berlack Israels LLP	Robert J. Stark	Seven Times Square		New York	NY	10036	212-209-4800	<a href="mailto:rstark@brownrudnick.com">rstark@brownrudnick.com</a>	Indenture Trustee
Cohen, Weiss & Simon	Bruce Simon	330 W. 42nd Street		New York	NY	10036	212-356-0231	<a href="mailto:bsimon@cwsny.com">bsimon@cwsny.com</a>	
Curtis, Mallet-Prevost, Colt & Mosle LLP	Steven J. Reisman	101 Park Avenue		New York	NY	10178-0061	2126966000	<a href="mailto:sreisman@cm-p.com">sreisman@cm-p.com</a>	Counsel to Flextronics International, Inc.; Flextronics International USA, Inc.; Multek Flexible Circuits, Inc.; Sheldahl de Mexico S.A. de C.V.; Northfield Acquisition Co.; Flextronics Asia-Pacific Ltd.; Flextronics Technology (M) Sdn. Bhd
Davis, Polk & Wardwell LLP	Donald Bernstein Brian Resnick	450 Lexington Avenue		New York	NY	10017	212-450-4092 212-450-4213	<a href="mailto:donald.bernstein@dpw.com">donald.bernstein@dpw.com</a> <a href="mailto:brian.resnick@dpw.com">brian.resnick@dpw.com</a>	Counsel to Debtor's Postpetition Administrative Agent; Counsel to JPMorgan Chase Bank, N.A.
Delphi Automotive LLP	Sean Corcoran, Karen Craft	5725 Delphi Drive		Troy	MI	48098	248-813-2000	<a href="mailto:sean.p.corcoran@delphi.com">sean.p.corcoran@delphi.com</a> <a href="mailto:karen.j.craft@delphi.com">karen.j.craft@delphi.com</a>	
DPH Holdings Corp.	John Brooks	5725 Delphi Drive		Troy	MI	48098	248-813-2143	<a href="mailto:john.brooks@delphi.com">john.brooks@delphi.com</a>	Reorganized Debtors
Flextronics International	Carrie L. Schiff	305 Interlocken Parkway		Broomfield	CO	80021	303-927-4853	<a href="mailto:cschiff@flextronics.com">cschiff@flextronics.com</a>	Counsel to Flextronics International
Flextronics International USA, Inc.	Paul W. Anderson	2090 Fortune Drive		San Jose	CA	95131	408-428-1308	<a href="mailto:paul.anderson@flextronics.com">paul.anderson@flextronics.com</a>	Counsel to Flextronics International USA, Inc.
Fried, Frank, Harris, Shriver & Jacobson	Brad Eric Sheler Bonnie Steingart Jennifer L Rodburg Richard J Slivinski	One New York Plaza		New York	NY	10004	212-859-8000	<a href="mailto:rodbuie@ffhsj.com">rodbuie@ffhsj.com</a> <a href="mailto:sliviri@ffhsj.com">sliviri@ffhsj.com</a>	Counsel to Equity Security Holders Committee
FTI Consulting, Inc.	Randall S. Eisenberg	3 Times Square	11th Floor	New York	NY	10036	212-2471010	<a href="mailto:randall.eisenberg@fticonsulting.com">randall.eisenberg@fticonsulting.com</a>	Financial Advisors to Debtors
Groom Law Group	Lonie A. Hassel	1701 Pennsylvania Avenue, NW		Washington	DC	20006	202-857-0620	<a href="mailto:lhassel@groom.com">lhassel@groom.com</a>	Counsel to Employee Benefits
Hodgson Russ LLP	Garry M. Graber	60 East 42nd St	37th Floor	New York	NY	10165-0150	212-661-3535	<a href="mailto:ggraber@hodgsonruss.com">ggraber@hodgsonruss.com</a>	Counsel to Hexcel Corporation
Honigman Miller Schwartz and Cohn LLP	Frank L. Gorman, Esq.	2290 First National Building	660 Woodward Avenue	Detroit	MI	48226-3583	313-465-7000	<a href="mailto:fgorman@honigman.com">fgorman@honigman.com</a>	Counsel to General Motors Corporation
Honigman Miller Schwartz and Cohn LLP	Robert B. Weiss, Esq.	2290 First National Building	660 Woodward Avenue	Detroit	MI	48226-3583	313-465-7000	<a href="mailto:rweiss@honigman.com">rweiss@honigman.com</a>	Counsel to General Motors Corporation
Jefferies & Company, Inc.	William Q. Derrough	520 Madison Avenue	12th Floor	New York	NY	10022	212-284-2521	<a href="mailto:bderrough@jefferies.com">bderrough@jefferies.com</a>	UCC Professional
JPMorgan Chase Bank, N.A.	Richard Duker	270 Park Avenue		New York	NY	10017	212-270-5484	<a href="mailto:richard.duker@jpmorgan.com">richard.duker@jpmorgan.com</a>	Prepetition Administrative Agent
JPMorgan Chase Bank, N.A.	Susan Atkins, Gianni Russello	277 Park Ave 8th Fl		New York	NY	10172	212-270-0426	<a href="mailto:susan.atkins@jpmorgan.com">susan.atkins@jpmorgan.com</a>	Postpetition Administrative Agent
Kramer Levin Naftalis & Frankel LLP	Gordon Z. Novod	1177 Avenue of the Americas		New York	NY	10036	212-715-9100	<a href="mailto:gnovod@kramerlevin.com">gnovod@kramerlevin.com</a>	Counsel Data Systems Corporation; EDS Information Services, LLC
Kramer Levin Naftalis & Frankel LLP	Thomas Moers Mayer	1177 Avenue of the Americas		New York	NY	10036	212-715-9100	<a href="mailto:tmayer@kramerlevin.com">tmayer@kramerlevin.com</a>	Counsel Data Systems Corporation; EDS Information Services, LLC
Kurtzman Carson Consultants	Sheryl Betance	2335 Alaska Ave		El Segundo	CA	90245	310-823-9000	<a href="mailto:sbetance@kccllc.com">sbetance@kccllc.com</a>	Noticing and Claims Agent
Law Debenture Trust of New York	Daniel R. Fisher	400 Madison Ave	Fourth Floor	New York	NY	10017	212-750-6474	<a href="mailto:daniel.fisher@lawdeb.com">daniel.fisher@lawdeb.com</a>	Indenture Trustee
Law Debenture Trust of New York	Patrick J. Healy	400 Madison Ave	Fourth Floor	New York	NY	10017	212-750-6474	<a href="mailto:patrick.healy@lawdeb.com">patrick.healy@lawdeb.com</a>	Indenture Trustee

COMPANY	CONTACT	ADDRESS1	ADDRESS2	CITY	STATE	ZIP	PHONE	EMAIL	PARTY / FUNCTION
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## **EXHIBIT C**

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## **EXHIBIT D**



**Hearing Date and Time: April 23, 2010 at 10:00 a.m. (prevailing Eastern time)**  
**Supplemental Response Date and Time: April 21, 2010 at 4:00 p.m. (prevailing Eastern time)**

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UNITED STATES BANKRUPTCY COURT  
 SOUTHERN DISTRICT OF NEW YORK

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	:		
In re	:		Chapter 11
	:		
DPH HOLDINGS CORP., <u>et al.</u> ,	:		Case Number 05-44481 (RDD)
	:		
	:		(Jointly Administered)
Reorganized Debtors.	:		
	:		
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REORGANIZED DEBTORS' SUPPLEMENTAL REPLY TO RESPONSES OF CERTAIN  
 CLAIMANTS TO DEBTORS' OBJECTIONS TO PROOF OF CLAIM NUMBER 11375 FILED  
 BY JEFFREY A. MILLER, ADMINISTRATIVE EXPENSE CLAIM NUMBER 16925 FILED  
 BY STANLEY D. SMITH, ADMINISTRATIVE EXPENSE CLAIM NUMBERS 17081 AND  
 18049 FILED BY JAMES A. LUECKE, ADMINISTRATIVE EXPENSE CLAIM NUMBER  
 18087 FILED BY FRANK X. BUDELEWSKI, ADMINISTRATIVE EXPENSE CLAIM  
 NUMBER 18604 FILED BY WALTER A. KUNKA, ADMINISTRATIVE EXPENSE  
 CLAIM NUMBER 20017 FILED BY ANDREW C. GREGOS, AND ADMINISTRATIVE  
EXPENSE CLAIM NUMBER 20054 FILED BY ROBYN R. BUDD

("SUPPLEMENTAL REPLY REGARDING CERTAIN PENSION AND BENEFIT CLAIMS")

DPH Holdings Corp. and certain of its affiliated reorganized debtors in the above-captioned cases (together with DPH Holdings Corp., the "Reorganized Debtors") hereby submit the Reorganized Debtors' Supplemental Reply To Responses Of Certain Claimants To Debtors' Objections To Proof of Claim Number 11375 Filed By Jeffrey A. Miller, Administrative Expense Claim Number 16925 Filed By Stanley D. Smith, Administrative Expense Claim Numbers 17081 And 18049 Filed By James A. Luecke, Administrative Expense Claim Number 18087 Filed By Frank X. Budelewski, Administrative Expense Claim Number 18604 Filed By Walter A. Kunka, Administrative Expense Claim Number 20017 Filed By Andrew C. Gregos, And Administrative Expense Claim Number 20054 Filed By Robyn R. Budd (the "Supplemental Reply"), and respectfully represent as follows:

A. Preliminary Statement

1. On October 8 and 14, 2005, Delphi Corporation and certain of its affiliates (the "Debtors"), predecessors of the Reorganized Debtors, filed voluntary petitions in this Court for reorganization relief under chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101-1330, as then amended (the "Bankruptcy Code").

2. On October 6, 2009, the Debtors substantially consummated the First Amended Joint Plan Of Reorganization Of Delphi Corporation And Certain Affiliates, Debtors And Debtors-In-Possession, As Modified (the "Modified Plan"), which had been approved by this Court pursuant to an order entered on July 30, 2009 (Docket No. 18707), and emerged from chapter 11 as the Reorganized Debtors.

3. On March 25, 2010, the Reorganized Debtors filed the Notice Of Sufficiency Hearing With Respect To Debtors' Objections To Proofs Of Claim Numbers 5268,

13270, 13838, 13880, 15585, 15589, 16925, 17081, 17773, 18049, 18087, 18604, 18740, 20017, And 20054 (Docket No. 19735) (the "Sufficiency Hearing Notice").<sup>1</sup>

4. The Reorganized Debtors filed the Sufficiency Hearing Notice and are filing this Supplemental Reply to implement Article 9.6(a) of the Modified Plan, which provides that "[t]he Reorganized Debtors shall retain responsibility for administering, disputing, objecting to, compromising, or otherwise resolving all Claims against, and Interests in, the Debtors and making distributions (if any) with respect to all Claims and Interests." Modified Plan, art. 9.6(a).

5. By the Sufficiency Hearing Notice and pursuant to the Order Pursuant To 11 U.S.C. § 502(b) And Fed. R. Bankr. P. 2002(m), 3007, 7016, 7026, 9006, 9007, And 9014 Establishing (i) Dates For Hearings Regarding Objections To Claims And (ii) Certain Notices And Procedures Governing Objections To Claims, entered December 7, 2006 (Docket No. 6089) (the "Claims Objection Procedures Order"), the Order Pursuant To 11 U.S.C. §§ 105(a) And 503(b) Authorizing Debtors To Apply Claims Objection Procedures To Address Contested Administrative Expense Claims, entered October 22, 2009 (Docket No. 18998), and the Eleventh Supplemental Order Pursuant To 11 U.S.C. § 502(b) And Fed. R. Bankr. P. 2002(m), 3007, 7016, 7026, 9006, 9007, And 9014 Establishing (i) Dates For Hearings Regarding Objections To Claims And (ii) Certain Notices And Procedures Governing Objections To Claims, entered April 5, 2010 (Docket No. 19776), the Reorganized Debtors scheduled a hearing (the "Sufficiency Hearing") on April 23, 2010<sup>2</sup> at 10:00 a.m. (prevailing Eastern time) in this Court to address the

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<sup>1</sup> Under the Order Pursuant to 11 U.S.C. § 502(b) And Fed. R. Bankr. P. 3007 Disallowing And Expunging Proof of Claim Number 11375 Filed By Jeffrey A. Miller, entered April 5, 2010 (Docket No. 19779), the Sufficiency Hearing with respect to Jeffrey A. Miller's proof of claim number 11375 was adjourned to April 22, 2010.

<sup>2</sup> Pursuant to the Sufficiency Hearing Notice, filed March 25, 2010, the Sufficiency Hearing was scheduled for April 22, 2010. Pursuant to direction of this Court, the Sufficiency Hearing was rescheduled for April 23, 2010 at 10:00 a.m. (prevailing Eastern time).

legal sufficiency of each proof of claim or administrative expense claim filed by the claimants listed on Exhibit A to the Sufficiency Hearing Notice and whether each such proof of claim states a colorable claim against the asserted Debtor.

6. This Supplemental Reply is filed pursuant to paragraph 9(b)(i) of the Claims Objection Procedures Order. Pursuant to paragraph 9(b)(ii) of the Claims Objection Procedures Order, if a Claimant wishes to file a supplemental pleading in response to this Supplemental Reply, the Claimant shall file and serve its response no later than two business days before the scheduled Sufficiency Hearing – i.e., by **April 21, 2010**.

B. Relief Requested

7. By this Supplemental Reply, the Reorganized Debtors request entry of an order disallowing and expunging certain administrative expense claims filed by employees of the Debtors asserting pension, employment benefit, and other post-employment benefit ("OPEB") claims.

C. Pension And Benefit Claims

8. During their review of the proofs of claim and administrative expense claims filed in these cases, the Reorganized Debtors determined that certain claims assert liabilities or dollar amounts in connection with pension plans, employee benefit programs, and/or OPEB that are not owing pursuant to the Reorganized Debtors' books and records. Because the amounts asserted by these claimants are not owing by the Debtors, the Reorganized Debtors believe that the parties asserting these proofs of claim and administrative expense claims are not creditors of the Debtors. Accordingly, this Court should enter an order disallowing and expunging each of these proofs of claim in their entirety.

D. Pension And Benefit Claims Filed Against The Debtors

9. On July 27, 2006, Jeffrey A. Miller, a former employee of the Debtors, filed proof of claim number 11375 against Delphi Corporation ("Delphi"), asserting an unsecured claim for stock options and a priority claim for a \$37,000 award under the Delphi Key Executive Compensation Program ("KECP"). On April 5, 2010, this Court entered an order disallowing the claim to the extent that it asserted an equity interest (Docket No. 19779).

10. On June 29, 2009, Stanley D. Smith, a former salaried employee of the Debtors, filed administrative expense claim number 16925 against Delphi Corporation ("Delphi"), asserting a priority claim in the amount \$4,278.00 for retiree health benefits allegedly owed by Delphi and General Motors Corporation.

11. On June 30, 2009, James A. Luecke, a former employee of the Debtors, filed administrative expense claim number 17081, asserting a priority claim in the amount of \$159,000.00 for wages, overtime pay, and a buyout payment allegedly owed by Delphi for its failure to grant Mr. Luecke a job transfer.

12. On June 29, 2009, James A. Luecke filed administrative expense claim number 18049 against Delphi, appearing to be a duplicate of administrative expense claim number 17081, asserting a priority claim in the amount of \$159,000.00 for wages, overtime pay, and a buyout payment allegedly owed by Delphi for its failure to grant Mr. Luecke a job transfer.

13. On July 9, 2009, Frank X. Budelewski, a former employee of the Debtors, filed administrative expense claim number 18087 against Delphi, asserting a priority claim for \$796.33 per month since April 1, 2009, for disability benefits allegedly owed by Delphi.

14. On July 14, 2009, Walter A. Kunka, a former salaried employee of the Debtors, filed administrative expense claim number 18604 against Delphi in the amount of

\$5,380.77, asserting a priority claim for payment for unused vacation days allegedly owed by Delphi.

15. On November 5, 2009, Andrew C. Gregos, a former employee of the Debtors, filed administrative expense claim number 20017 against Delphi, asserting a priority claim in the amount of \$528,443.24 for disability benefits allegedly owed by Delphi.

16. On October 30, 2009, Robyn R. Budd (together with Mr. Miller, Mr. Smith, Mr. Lueke, Mr. Budelewski, Mr. Kunka, and Mr. Gregos the "Claimants") filed administrative expense claim number 20054 (together with administrative expense claim numbers 16925, 17081, 18049 18087, 18604, and 20017, and proof of claim number 11375, the "Pension and Benefit Claims") against Delphi, asserting a priority claim for severance benefits allegedly owed by Delphi.

17. The Debtors' Objections To The Pension And Benefit Claims. On October 15, 2009, the Reorganized Debtors filed the Reorganized Debtors' Thirty-Sixth Omnibus Objection Pursuant To 11 U.S.C. § 502(b) And Fed. R. Bankr. P. 3007 To (I) Modify And Allow Claim And (II) Expunge Certain (A) Duplicate SERP Claims, (B) Books And Records Claims, (C) Untimely Claims, And (D) Pension, Benefit, And OPEB Claims (Docket No. 18983) ("Thirty-Sixth Omnibus Claims Objection"), by which the Debtors objected to proof of claim number 11375 filed by Mr. Miller on the grounds that such claim asserts liabilities in connection with pension plans, employee benefit programs, and post-retirement health and life insurance benefit programs for which the Reorganized Debtors are not liable

18. On October 15, 2009, the Reorganized Debtors filed the Reorganized Debtors' Thirty-Seventh Omnibus Objection Pursuant To 11 U.S.C. § 503(b) And Fed. R. Bankr. P. 3007 To Expunge Certain (I) Prepetition Claims, (II) Equity Interests, (III) Books And

Records Claims, (IV) Untimely Claims, (V) Paid Severance Claims, (VI) Pension, Benefit, And OPEB Claims, And (VII) Duplicate Claims (Docket No. 18984) (the "Thirty-Seventh Omnibus Claims Objection"), by which the Debtors objected to administrative expense claim numbers 16925, 17081, 18087, 18604 filed by Mr. Smith, Mr. Luecke, Mr. Budelewski, and Mr. Kunka, respectively, on the grounds that such claims assert pension and/or benefit obligations not reflected on the Debtors' books and records and for which the Debtors are not liable and, accordingly, sought an order disallowing and expunging those administrative expense claims.

19. On January 22, 2010, the Reorganized Debtors filed the Reorganized Debtors' Forty-Third Omnibus Objection Pursuant To 11 U.S.C. § 503(b) And Fed. R. Bankr. P. 3007 To (I) Expunge Certain Administrative Expense (A) Severance Claims, (B) Books And Records Claims, (C) Duplicate Claims, (D) Equity Interests, (E) Prepetition Claims, (F) Insufficiently Documented Claims, (G) Pension, Benefit, And OPEB Claims, (H) Workers' Compensation Claims, And (I) Transferred Workers' Compensation Claims, (II) Modify And Allow Certain Administrative Expense Severance Claims, And (III) Allow Certain Administrative Expense Severance Claims (Docket No. 19356) ("Forty-Third Omnibus Claims Objection"), by which the Debtors objected to administrative expense claim numbers 20017 and 20054 filed by Mr. Gregos and Ms. Budd, respectively, on the grounds that the administrative expense claims asserted liabilities for severance payments that have already been satisfied in full.

20. On February 12, 2010, the Reorganized Debtors filed the Reorganized Debtors' Forty-Fifth Omnibus Objection Pursuant To 11 U.S.C. § 503(b) And Fed. R. Bankr. P. 3007 To (I) Expunge Certain Administrative Expense (A) Severance Claims, (B) Books And Records Claims, (C) Duplicate Claims, (D) Pension And Benefit Claims, And (E) Transferred Workers' Compensation Claims, (II) Modify And Allow Certain Administrative Expense

Severance Claims, And (III) Allow Certain Administrative Expense Severance Claims (Docket No. 19423) ("Forty-Fifth Omnibus Claims Objection"), by which the Debtors objected to administrative expense claim number 18049 filed by Mr. Luecke on the grounds that such administrative expense claim asserts a claim for liabilities in connection with the Debtors' pension plans, employee benefit programs, and post-retirement health and life insurance benefit programs for which the Debtors are not liable.

21. Responses To The Reorganized Debtors' Objections. On October 26, 2009, Mr. Smith filed a response to the Thirty-Seventh Omnibus Claims Objection (Docket No. 19006), in which he requests that this Court reconsider its decision with respect to the health and life insurance benefits of salaried retirees.

22. On October 26, 2009, Mr. Luecke filed a response to the Thirty-Seventh Omnibus Claims Objection (Docket No. 19007), in which he asserts that his claim does not relate to pension, employee benefit, or other post-employment benefits, but that it relates to overtime, wages, and severance payments.

23. On October 29, 2009, Mr. Budelewski filed a response to the Thirty-Seventh Omnibus Claims Objection (Docket No. 19026), in which he requests that this Court reconsider its decision with respect to the pensions of salaried retirees.

24. On November 10, 2009, Mr. Kunka served an undocketed response to the Thirty-Seventh Omnibus Claims Objection, in which he asserts that his uncompensated vacation time warrants administrative priority. A copy of Mr. Kunka's response is attached hereto as Exhibit A.

25. On November 12, 2009, Mr. Miller served an undocketed response to the Thirty-Sixth Omnibus Claims Objection, in which he asserts that he has a right to his KECP



award and his stock options because verbal and written commitments were made in other legal proceedings. A copy of Mr. Miller's response is attached hereto as Exhibit B.

26. On February 17, 2010, Ms. Budd filed a response to the Forty-Third Omnibus Claims Objection (Docket No. 19514), in which she objected to her claim being disallowed, although the Reorganized Debtors actually sought to allow her claim pursuant to the Forty-Third Omnibus Objection.

27. On February 18, 2010, Mr. Gregos filed a response to the Forty-Third Omnibus Claims Objection (Docket No. 19523), in which he asserts that his claim is not a severance claim, but that the claim is for loss of extended disability benefits and medical retirement.

28. On March 15, 2010, Mr. Luecke filed a response to the Forty-Fifth Omnibus Claims Objection (Docket No. 19707), in which he asserts that his claim does not relate to pension, employee benefits, or other post-employment benefits, but instead relates to the Debtors' failure to grant him a job transfer.

29. The Sufficiency Hearing Notice. Pursuant to the Claims Objection Procedures Order, the hearing on the Debtors' objection to the Pension and Benefit Claims was adjourned to a future date. On March 25, 2010, the Reorganized Debtors filed the Sufficiency Hearing Notice with respect to the Pension and Benefit Claims, among other proofs of claim and administrative expense claims, scheduling the Sufficiency Hearing.

E. Claimants' Burden Of Proof And Standard For Sufficiency Of Claim

30. The Reorganized Debtors respectfully submit that the Pension and Benefit Claims fail to state a claim against the Debtors under rule 7012 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"). The Claimants have not proved any facts to support a right to payment by the Reorganized Debtors on behalf of the Debtors. Accordingly,

the Debtors' objections to each Pension and Benefit Claim should be sustained and each such claim should be disallowed and expunged in its entirety.

31. The burden of proof to establish a claim against the Debtors rests on the claimants and, if a proof of claim does not include sufficient factual support, such proof of claim is not entitled to a presumption of prima facie validity pursuant to Bankruptcy Rule 3001(f). In re Spiegel, Inc., No. 03-11540, 2007 WL 2456626, at \*15 (Bankr. S.D.N.Y. August 22, 2007) (the claimant always bears the burden of persuasion and must initially allege facts sufficient to support the claim); see also In re WorldCom, Inc., No. 02-13533, 2005 WL 3832065, at \*4 (Bankr. S.D.N.Y. Dec. 29, 2005) (only a claim that alleges facts sufficient to support legal liability to claimant satisfies claimant's initial obligation to file substantiated proof of claim); In re Allegheny Int'l., Inc., 954 F.2d 167, 173 (3d Cir. 1992) (in its initial proof of claim filing, claimant must allege facts sufficient to support claim); In re Chiro Plus, Inc., 339 B.R. 111, 113 (Bankr. D.N.J. 2006) (claimant bears initial burden of sufficiently alleging claim and establishing facts to support legal liability); In re Armstrong Finishing, L.L.C., No. 99-11576-C11, 2001 WL 1700029, at \*2 (Bankr. M.D.N.C. May 2, 2001) (only when claimant alleges facts sufficient to support its proof of claim is it entitled to have claim considered prima facie valid); In re United Cos. Fin. Corp., 267 B.R. 524, 527 (Bankr. D. Del. 2000) (claimant must allege facts sufficient to support legal basis for its claim to have claim make prima facie case).

32. For purposes of sufficiency, this Court has determined that the standard of whether a claimant has met its initial burden of proof to establish a claim should be similar to the standard employed by courts in deciding a motion to dismiss under Bankruptcy Rules 7012 and 9014. See Transcript of January 12, 2007 Hearing (Docket No. 7118) (the "January 12, 2007 Transcript") at 52:24-53:1. Pursuant to that standard, a motion to dismiss should be granted "if it

plainly appears that the nonmovant 'can prove no set of facts in support of his claim which would entitle him to relief.'" In re Lopes, 339 B.R. 82, 86 (Bankr. S.D.N.Y. 2006) (quoting Conley v. Gibson, 355 U.S. 41, 45-46 (1957)). Essentially, the claimant must provide facts that sufficiently support a legal liability against the Debtors.

33. This Court further established that the sufficiency hearing standard is consistent with Bankruptcy Rule 3001(f), which states that "a proof of claim executed and filed in accordance with these Rules shall constitute prima facie evidence of the validity and amount of the claim." Fed. R. Bankr. P. 3001(f) (emphasis added). Likewise, Bankruptcy Rule 3001(a) requires that "the proof of claim must be consistent with the official form" and Bankruptcy Rule 3001(c) requires "evidence of a writing if the claim is based on a writing." Fed. R. Bankr. P. 3001(a), (c). See January 12, 2007 Transcript at 52:17-22.

F. Argument Regarding The Pension And Benefit Claims

34. In their administrative expense claims and responses to the Debtors' objection to those claims, the Claimants have not proved any set of facts that support a right to payment from the Reorganized Debtors or address the Debtors' arguments as set forth in the Thirty-Sixth Omnibus Claims Objection, the Thirty-Seventh Omnibus Claims Objection, the Forty-Third Omnibus Claims Objection, and the Forty-Fifth Omnibus Claims Objection supporting the Debtors' request for this Court to enter an order disallowing and expunging the Pension and Benefit Claims.

35. The Pension and Benefit Claims should be disallowed and expunged to the extent they assert liabilities or dollar amounts on account of salaried OPEB. As this Court has previously determined, the Debtors' Salaried OPEB was not vested and was provided on an at will basis. See Final Order Under 11 U.S.C. §§ 105, 363(b)(1), 1108, And 1114(d)(I) Confirming Debtors' Authority To Terminate Employer-Paid Post-Retirement Health Care

Benefits And Employer-Paid Post-Retirement Life Insurance Benefits For Certain (a) Salaried Employees And (b) Retirees And Their Surviving Spouses And (II) Amending Scope And Establishing Deadline For Completion Of Retirees' Committee's Responsibilities, dated March 11, 2009 (Docket No. 16448).

36. The cancellation of a benefit provided on an at will basis does not give rise to a "claim" as defined in section 101(5) of the Bankruptcy Code because the retiree has no "right to payment." See, e.g., In re Wellman, Inc., No. 08-10595, 2009 WL 465776, slip op. at \*3 (Bankr. S.D.N.Y. Jan. 23, 2009) (sustaining debtors' objection to disallow portion of claims for modified severance benefits that exceeded amounts owed under amended severance plan, reasoning that because old severance plan was terminable at will, claims under old severance plan were not enforceable); In re Ionosphere Clubs, Inc., 134 B.R. 515, 519 n. 4 (Bankr. S.D.N.Y. 1991) (noting that terminating plans which are terminable at will gave rise to no claims whatsoever).

G. Arguments Regarding Specific Claims

37. Jeffery Miller (Proof of Claim Number 11375). The assertions of Mr. Miller that he is entitled to receive a "KECIP", otherwise known as the Delphi Corporation Annual Incentive Plan, payment of \$37,000 is without merit. In support of his claim, Mr. Miller states that he "worked the 6 month period and it was never stated that an employee had to work until August 15<sup>th</sup>. I worked until July 21, 2006." Contrary to his assertions, under section 5(b) of the Delphi Corporation Annual Incentive Plan (attached hereto as Exhibit C), Mr. Miller was required to "continue to render services as an employee" to receive any award. Furthermore, under section 6(a) of the Delphi Corporation Annual Incentive Plan, "[i]f an employee . . . quits at any time . . . the award will terminate on the date of termination of employment." Mr. Miller admits that he only worked until July 22, 2006 well before end of the annual calendar year

performance period under the Annual Incentive Plan. See Exhibit C, section 4(b). Accordingly, Mr. Miller is not entitled to an award and Mr. Miller's claim should be disallowed.

38. Stanley D. Smith (Administrative Expense Claim No. 16925), Frank X. Budelewski (Administrative Expense Claim No. 18087), And Andrew C. Gregos (Administrative Expense Claim No. 20017). The assertions of Mr. Smith, Mr. Budelewski, and Mr. Gregos that they are entitled to continue receiving pension, benefit, and OPEB payments are without merit. As stated above, those pension and benefit plans were terminated with respect to all employees.

39. James A. Luecke (Administrative Expense Claim Number 17081 and 18049). The assertion of Mr. Luecke that he is entitled to receive payment for lost wages, overtime, and severance is without merit. Mr. Luecke bases his argument on an alleged promise of a job transfer. Because of Mr. Luecke's failure to provide sufficient documentation to permit an understanding of the basis for his claims, such claims do not make out a prima facie case against the Debtors.

40. Walter A. Kunka (Administrative Expense Claim Number 18604). In his claim, Mr. Kunka asserts that he was unfairly discriminated against for not receiving a lump sum payment for unused vacation days calculated on an annual basis for 2009. In making this argument, Mr. Kunka erroneously relies on the Delphi Separation Allowance Plan that was in effect for 2008.<sup>3</sup> The 2008 plan, however, was replaced by a new plan in 2009. By the letter dated February 5, 2009 and effective January 1, 2009, separation pay for unused vacation days was to be calculated on a month-to-month basis, and not on an annual basis previously used in

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<sup>3</sup> Under the 2008 Delphi Separation Allowance Plan, retirement-eligible employees were to receive 100% of their annual vacation entitlement, if such employee retired on or after March 1, 2009.

the 2008 plan. Under the 2009 Delphi Separation Allowance Plan, employees who retired or separated from service were eligible to receive a separation payment only for prorated unused vacation days prior to their last day of work. Because the Debtors reserved the right to modify or amend their benefit plans "at any time" (see Exhibits 2 and 3 to Mr. Kunka's proof of claim), the Debtors were free to change the calculation of separation pay for unused vacation in February 2009. Contrary to Mr. Kunka's assertions, under the clear terms of the 2008 and 2009 plans, he did not suffer legally cognizable "discrimination" just because certain employees who retired before the modification received more in separation pay.<sup>4</sup>

41. Accordingly, Mr. Kunka, has failed to make out a prima facie case against the Debtors for additional amounts owed and Mr. Kunka's claim should be disallowed.

42. Robyn R. Budd (Administrative Expense Claim No. 20054). The assertion of Ms. Budd that her severance claim not be disallowed no longer applies. Ms. Budd originally responded to the Forty-Third Omnibus Claims Objection despite language that would allow her severance claim. Ms. Budd has confirmed in an e-mail to the Reorganized Debtors, dated April 12, 2010, that she has received all of her severance payments and no longer has any claims against the Debtors. A copy of this e-mail is attached hereto as Exhibit D. Therefore, the Reorganized Debtors seek to disallow and expunge administrative expense claim number 20054 in its entirety.

43. Accordingly, the Reorganized Debtors assert that (a) the Claimants have not met their burden of proof to establish a claim against or interest in the Debtors, (b) the Pension and Benefit Claims are not entitled to a presumption of prima facie validity pursuant to Bankruptcy Rule 3001(f), and (c) the Pension and Benefit Claims fail to state a claim against the

---

<sup>4</sup> Mr. Kunka does not contest the amount he was actually paid comported with the 2009 plan.

Reorganized Debtors under Bankruptcy Rule 7012. Because the Claimants cannot provide facts or law supporting their claims, the Thirty-Sixth Omnibus Claims Objection should be sustained as to proof of claim number 11375, the Thirty-Seventh Omnibus Claims Objection should be sustained as to administrative expense claim numbers 16925, 17081, 18087, and 18604, the Forty-Third Omnibus Claims Objection should be sustained as to administrative expense claim numbers 20017 and 20054, the Forty-Fifth Omnibus Claims Objection should be sustained as to administrative expense claim number 18049, and each such claim should be disallowed and expunged in its entirety.

WHEREFORE the Reorganized Debtors respectfully request this Court enter an order (a) sustaining the objections with respect to the Pension and Benefit Claims, (b) disallowing and expunging each Pension and Benefit Claim in its entirety, and (c) granting such further and other relief this Court deems just and proper.

Dated: New York, New York  
April 13, 2010

SKADDEN, ARPS, SLATE, MEAGHER  
& FLOM LLP

By: /s/ John Wm. Butler, Jr.  
John Wm. Butler, Jr.  
John K. Lyons  
Ron E. Meisler  
155 North Wacker Drive  
Chicago, Illinois 60606

- and -

By: /s/ Kayalyn A. Marafioti  
Kayalyn A. Marafioti  
Four Times Square  
New York, New York 10036

Attorneys for DPH Holdings Corp., et al.,  
Reorganized Debtors

## **EXHIBIT A**



HONORABLE ROBERT D. DRAIN  
United States Bankruptcy Judge  
United States Bankruptcy Court for the Southern District of New York  
One Bowling Green  
Room 632  
New York, New York 10004

RECEIVED  
BY MAIL ☐  
BY HAND ☐  
NOV 10 2009  
SKADDEN, ARPS, SLATE,  
MEAGHER & FLOM

-and-

DPH HOLDINGS CORPORATION  
5725 Delphi drive  
Troy, Michigan 48098  
(Attn: President)

-and-

SKADDEN, ARPS, SLATE, MEAGER & FLOM LLP  
155 North Wacker Drive  
Chicago, Illinois 60606  
(Attn: John Wm. Butler, Jr., John K. Lyons, and Joseph N. Wharton)

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X	:	
In re	:	Chapter 11
	:	
DELPHI CORPORATION, <u>et al.</u> ,	:	Case No. 05-44481 (RDD)
	:	
Debtors.	:	(Jointly Administered)
-----X		

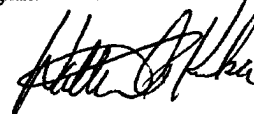
NOTICE OF OBJECTION TO EXPUNGEMENT OF ADMINISTRATIVE CLAIM  
NUMBER 18604 BY THE  
"THIRTY-SEVENTY OMNIBUS CLAIMS OBJECTION"

I, Walter A. Kunka, hereby object and contest the expungement of Administrative Claim #18604 which I originated. The claim is for 16.67 days of uncompensated vacation. The total amount of the claim is 16.67 days x \$322.77/day = \$5,380.77 as detailed in the original claim filed on July 14, 2009.

The legal reason on which I content this claim should not be disallowed and expunged is based on the fact that it appears individuals under similar circumstances were treated with preference as outlined below;

- Delphi letter dated February 5, 2009 stated that effective January 1, 2009, all vacations will vest on a month to month basis. The letter goes on to state that employees who either retire or separate from service will be eligible only for prorated vacation day compensation. (Exhibit #1)
- Employees who retired or separated from service January 1<sup>st</sup> through February 28<sup>th</sup>, 2009 received compensation for their entire vacation allotment. There was no vesting and no prorating of vacation compensation.
- Employees who retired or separated from service on or after March 1, 2009 received only vested vacation compensation that was prorated.

Therefore based upon the above facts that allude to treatment with preference I, Walter A. Kunka, respectfully request that the Court enter an order negating the expungement of my claim and grant the relief requested herein for the total original amount of the claim.



Walter A. Kunka  
220 Old Oak drive  
Cortland, Ohio 44410-1122  
United States of America

Dated: Cortland, Ohio  
November 5, 2009

Exhibit 1 (with original claim)

# DELPHI

February 5, 2009

To Delphi U.S. Salaried Employees:

As referenced in the letter distributed today to Delphi's global salaried workforce, Delphi, like others in the automotive sector, continues to face serious challenges created by a weakened global economy and its effect on the automotive industry. U.S. light vehicle sales for 2009 are down roughly 22% from an already slower 2008, and down nearly 40% from volumes experienced at the beginning of this decade. At current forecasts, 2009 U.S. light vehicle sales will reach their lowest level since 1982.

Delphi must respond to these market and economic realities by taking a series of difficult but necessary actions, applicable to U.S. salaried employees.

- The U.S. 2009 merit plan and annual incentive payments (AIP) for eligible executives and U.S. non-executive salaried employees will be suspended in 2009. Suspending these programs in the U.S. and other locations will assist in generating cash flow in 2009.
- Additionally, effective April 1, 2009, Delphi will cease to provide health care and life insurance in retirement to salaried employees and retirees.

In these extraordinary economic times, it is necessary for Delphi to discontinue these benefits in order to work towards further modifications to its plan of reorganization that will enable the company to emerge from chapter 11 reorganization as soon as practicable. Delphi acknowledges these actions will impose a real hardship on former beneficiaries of these programs. However, the company's recognition of this hardship, which allowed Delphi to continue these benefits in a more robust economic environment, regrettably does not support continuing these programs in the current economic environment.

On February 4, 2009, Delphi filed a motion with the U.S. Bankruptcy court regarding the aforementioned benefits in retirement. The benefits are generally referred to as Other Post Employment Benefits (OPEB). You will receive a copy of the motion in the mail at your home address. A copy of the motion can also be found on [www.delphidocket.com](http://www.delphidocket.com). Any responses to the motion will need to be filed with the Bankruptcy Court no later than February 17, 2009.

The change does not impact active employees hired prior to January 1, 1993 until they retire. Active employees who were hired after January 1, 1993 but prior to January 1, 2001 will no longer receive the 1% Corporate contribution made into their 401(k) account in lieu of health and life coverage in retirement. Employees hired on or after January 1, 2001 are not affected by this change because they did not have any health or life coverage in retirement based upon their date of hire. Effective April 1, 2009, current and future retirees will have access to Delphi coverages but will be required to pay the full cost of coverages continued. Impacted retirees will be notified of these changes in a separate communication and will be provided the information about continuing their coverages at their own expense. Questions about this change and/or the ability to purchase alternative coverage may be directed to the National Benefits Center at 1-866-335-7444.

Exhibit Pg 60 of 171  
Exhibit # 1

Page 2

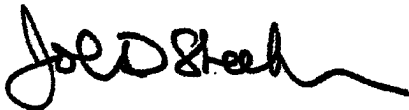
- In December 2008, Delphi advised U.S. salaried employees that the Separation Allowance Plan severance schedule would be changed to cap at 6 months based upon length of service. The March 1, 2009 implementation date accommodated previously approved commitments to employees (e.g. specific wind down situations). Additionally, the date was based upon our projected customer volumes and workforce reduction plans at that time. However, rapidly deteriorating business conditions make it necessary to apply the new schedule to all classified salaried employees who were provided release of claims agreements after January 5, 2009.
- Effective January 1, 2009, all vacations will vest on a month-to-month basis. Employees who retire or separate from service will be eligible only for prorated vacation days prior to their last day of work based upon their date of separation in the calendar year. This change will be reflected in all Separation Allowance Plan documents presented to employees beginning today. ← Exhibit #
- Service Awards will be suspended until further notice. At the point in time Delphi is able to reinstate this program, missed anniversary dates during the suspended period will be recognized.
- Cash payments (\$50) to be made in May 2009 to employees who completed Health Risk Assessment Questionnaires will be suspended until further notice. This suspension includes employees who have already completed forms.

Delphi is among many companies throughout the world examining all policies, compensation and benefits in response to a weakened global economy. This week, Delphi employees in all regions of the world are being advised of similar changes affecting their site, country or region.

In this dynamic environment, it is possible that additional cost cutting measures will be necessary in response to changing business conditions; in that event, we will do our best to notify you as early as we can if and when further measures are needed. Except as otherwise directed, should you have questions about this letter or the information provided, please contact your local HR department.

We regret that these changes are necessary, but please understand the changes are only implemented after careful consideration of many factors, including the impact on Delphi people. We believe these changes are necessary to exit bankruptcy and maintain a viable global business.

Sincerely,



John D. Sheehan  
Vice President and CFO  
Delphi



Kevin M. Butler  
Vice President Human Resources  
Delphi

## **EXHIBIT B**

The Claim identified as having a Basis for Objection of "Modified And Allowed Claim" is a claim that overstates the dollar amount owed.

Claims identified as having a Basis for Objection of "Duplicate SERP Claims" are duplicates of other claims.

Claims identified as having a Basis for Objection of "Books And Records Claims" assert liabilities and dollar amounts that are not owing pursuant the Reorganized Debtors' books and records.

Claims identified as having a Basis for Objection of "Untimely Claims" are Claims that were not timely filed pursuant to the Order Under 11 U.S.C. §§ 107(b), 501, 502, And 1111(a) And Fed R. Bankr. P. 1009, 2002(a)(7), 3003(c)(3), And 5005(a) Establishing Bar Dates For Filing Proofs Of Claim And Approving Form And Manner Of Notice Thereof (Docket No. 3206).

Claims identified as having a Basis for Objection of "Pension, Benefit, And OPEB Claims" are those Claims for which the Reorganized Debtors are not liable.

Date Filed	Claim Number	Asserted Claim Amount <sup>1</sup>	Basis For Objection	Treatment Of Claim	Surviving Claim Number (if any)
07/27/06	11375	\$74,000.00	Pension, Benefit, And OPEB Claims	Disallow And Expunge	

If you wish to view the complete exhibits to the Thirty-Sixth Omnibus Claims Objection, you can do so at [www.dphholdingsdocket.com](http://www.dphholdingsdocket.com). If you have any questions about this notice or the Thirty-Sixth Omnibus Claims Objection to your Claim, please contact the Reorganized Debtors' counsel by e-mail at [dphholdings@skadden.com](mailto:dphholdings@skadden.com), by telephone at 1-800-718-5305, or in writing at Skadden, Arps, Slate, Meagher & Flom LLP, 155 North Wacker Drive, Chicago, Illinois 60606 (Att'n: John Wm. Butler, Jr., John K. Lyons, and Joseph N. Wharton). Questions regarding the amount of a Claim or the filing of a Claim should be directed to Claims Agent at 1-888-249-2691 or [www.dphholdingsdocket.com](http://www.dphholdingsdocket.com). CLAIMANTS SHOULD NOT CONTACT THE CLERK OF THE BANKRUPTCY COURT TO DISCUSS THE MERITS OF THEIR CLAIMS.

THE PROCEDURES SET FORTH IN THE ORDER PURSUANT TO 11 U.S.C. § 502(b) AND FED. R. BANKR. P. 2002(m), 3007, 7016, 7026, 9006, 9007, AND 9014 ESTABLISHING (I) DATES FOR HEARINGS REGARDING OBJECTIONS TO CLAIMS AND (II) CERTAIN NOTICES AND PROCEDURES GOVERNING OBJECTIONS TO CLAIMS, ENTERED DECEMBER 7, 2006 (THE "CLAIMS OBJECTION PROCEDURES ORDER"), APPLY TO YOUR PROOFS OF CLAIM THAT ARE SUBJECT TO THE REORGANIZED DEBTORS' OBJECTION AS SET FORTH ABOVE. A

<sup>1</sup> Asserted Claim Amounts listed as \$0.00 generally reflect that the claim amount asserted is unliquidated.

RECEIVED  
☒ BY MAIL ☐ BY HAND

NOV 12 2009

SKADDEN, ARPS, SLATE,  
MEAGHER & FLOM

To: Honorable Robert Drain, United States Bankruptcy Judge

Claimant: Jeffrey Allen Miller

Claim Description:

1. Loss of stock grants 8,915 with a stock price of \$5 at time of filing
2. Jan-June 2006 KECP bonus of \$37,000 not paid
3. Stock options 17,546 never exercised

Reason claim should not be disallowed:

I was asked to go to Delphi's worst performing plant (Dayton, Ohio Moraine) in 2004 that was losing (\$180M) a year. In one year that I provided operational leadership the losses in the plant were cut in half. The incentive and long term compensation that were promised were never paid.

However, believing that my employer would make good on its financial promises to me, I was severely disadvantaged during divorce proceedings in the same time period.

As part of the divorce the stock grants and stock options were used in the settlement, causing me to have full obligation for college tuition for the three children.

Additionally, I was an executive with the AHG (Automotive Holdings Group) which was tasked to sell or close all North American operations. As an executive member I was told:

- Bonuses would be paid during chapter 11 process for retention
- A letter signed by Sr. VP Mark Webber stating that I had a job in the new Delphi

Therefore, I believe verbal and written commitments were made and used in other legal proceedings. Thus, I am entitled to stock in the new company equal to the value of what was not paid to me. A cash settlement is equally acceptable in the amount of \$81,575.00.

I ask that you please give this serious consideration.



Jeffrey A. Miller

11/08/09

Jeffrey A. Miller

Name and address where notices should be sent:

Jeffrey A. Miller  
19145 Mill Grove Dr  
Noblesville, IN 46062

Telephone number:

- ☐ Check box if you are aware that anyone else has filed a proof of claim relating to your claim. Attach copy of statement giving particulars.
- ☐ Check box if you have never received any notices from the bankruptcy court in this case.
- ☐ Check box if the address differs from the address on the envelope sent to you by the court.

THIS SPACE IS FOR COURT USE ONLY

Account or other number by which creditor identifies debtor:

Check here ☐ replaces if this claim a previously filed claim, dated: \_\_\_\_\_  
☐ amends

**1. Basis for Claim**

- ☐ Goods Sold / Services Performed  
☐ Customer Claim  
☐ Taxes  
☐ Money Loaned  
☐ Personal Injury  
☐ Other \_\_\_\_\_

- ☐ Retiree benefits as defined in 11 U.S.C. § 1114(a)  
☒ Wages, salaries, and compensation (fill out below)  
Last four digits of SS #: 0241  
Unpaid compensation for services performed from 1/12/1998 to 7/21/2006  
(date) (date)

**2. Date debt was incurred:**

January 12, 1998 Through July 21, 2006

**3. If court judgment, date obtained:**

**4. Total Amount of Claim at Time Case Filed:** \$ STOCK (unsecured)

\$ 37,000 (priority)

\$ 37,000 + STOCK (Total)

If all or part of your claim is secured or entitled to priority, also complete Item 5 or 7 below.

- ☐ Check this box if claim includes interest or other charges in addition to the principal amount of the claim. Attach itemized statement of all interest or additional charges.

**5. Secured Claim.**

- ☐ Check this box if your claim is secured by collateral (including a right of setoff).

Brief Description of Collateral:

- ☐ Real Estate ☐ Motor Vehicle  
☐ Other \_\_\_\_\_

Value of Collateral: \$ \_\_\_\_\_

Amount of arrearage and other charges at time case filed included in secured claim, if any: \$ \_\_\_\_\_

**6. Unsecured Nonpriority Claim** \$ ISSUANCE OF NEW STOCK 28,061 SHARES

- ☒ Check this box if: a) there is no collateral or lien securing your claim, or b) your claim exceeds the value of the property securing it, or if c) none or only part of your claim is entitled to priority.

**7. Unsecured Priority Claim.**

- ☐ Check this box if you have an unsecured priority claim

Amount entitled to priority \$ 37,000

Specify the priority of the claim:

- ☒ Wages, salaries, or commissions (up to \$10,000),\* earned within 180 days before filing of the bankruptcy petition or cessation of the debtor's business, whichever is earlier - 11 U.S.C. § 507(a)(3).  
☐ Contributions to an employee benefit plan - 11 U.S.C. § 507(a)(4).  
☐ Up to \$2,225\* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use - 11 U.S.C. § 507(a)(6).  
☐ Alimony, maintenance, or support owed to a spouse, former spouse, or child - 11 U.S.C. § 507(a)(7).  
☐ Taxes or penalties owed to governmental units - 11 U.S.C. § 507(a)(8).  
☐ Other - Specify applicable paragraph of 11 U.S.C. § 507(a)(\_\_\_\_).

\*Amounts are subject to adjustment on 4/1/07 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment. \$10,000 and 180-day limits apply to cases filed on or after 4/20/05. Pub. L. 109-8.

**8. Credits:** The amount of all payments on this claim has been credited and deducted for the purpose of making this proof of claim.

**9. Supporting Documents:** Attach copies of supporting documents, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, court judgments, mortgages, security agreements, and evidence of perfection of lien. DO NOT SEND ORIGINAL DOCUMENTS. If the documents are not available, explain. If the documents are voluminous, attach a summary.

**10. Date-Stamped Copy:** To receive an acknowledgment of the filing of your claim, enclose a stamped, self-addressed envelope and copy of this proof of claim

Date

7-21-06

Sign and print the name and title, if any, of the creditor or other person authorized to file this claim (attach copy of power of attorney, if any):

Jeffrey A. Miller

THIS SPACE IS FOR COURT USE ONLY

Penalty for presenting fraudulent claim: Fine of up to \$500,000 or imprisonment for up to 5 years, or both. 18 U.S.C. §§ 152 and 3571.



Jeff:

Per our conversation, here are your current RSU balances - please note that dividends will continue to accrue on the balance

The 2003 grant:  
Current balance is 1,561  
Will vest equally in 2006 and 2008

The 2004 grant:  
Current balance is 3,722  
Will vest equally in 2007, 2008, 2009

The 2005 grant:  
Current balance is 3,632  
Will vest equally in 2008, 2009, 2010

If you need anything else, please feel free to call

Regards,  
Michelle

Michelle Swastek  
Manager, Executive Compensation  
Ph: 248-813-6065  
Fax: 248-813-2523  
e-mail: michelle.swastek@delphi.com

TOTAL 8,915 RSU's

STOCK PRICE @ time of filing \$5

\$44,575

Delphi Document MAY 02, 2003 RSU stock  
price assumed at \$10.00/share

\$89,150.

8,182 8,915

**CASH COMPENSATION****Base Compensation****Current Salary: \$143,808****January - June 2006 Incentive Plan Award****Corporate Target: \$9,250****Division Target: \$9,250****Total 6-month AIP Target: \$18,500***Targets are shown at current band level; year-end targets are adjusted for promotions and transfers*

Incentive award targets represent the average award (consistent with competitive market practice by pay band) that an executive who substantially achieves individual performance objectives could expect to earn if the performance measurements were at 100% of targeted levels. Actual payouts vary based on actual results.

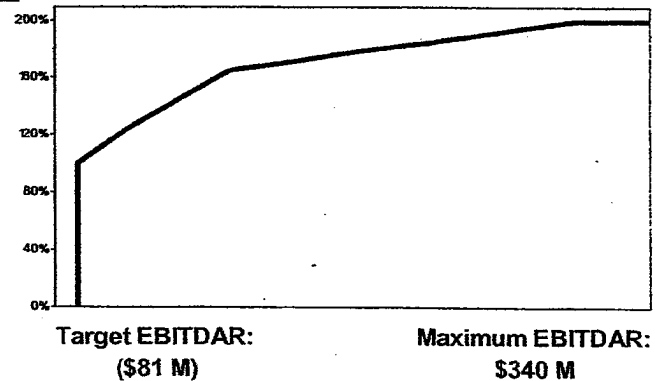
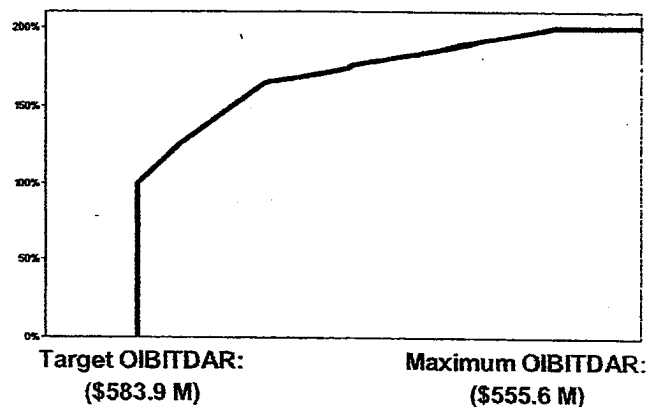
By participating in the Key Executive Compensation Program (KECP), the executive waives any and all of the executive claims arising from the 2005 Recognition and Retention Grant program.

This award is subject to the KECP Safe Harbor provision approved by the Court on February 10, 2006. The full provision is attached.

Acknowledged and agreed:

*[Signature]*  
Date: 3-9-06

AHG-Division 200% 18,500  
corp 200% 18,500  
37,000

Corporate EBITDAR MatrixAHG OIBITDAR Matrix

# Stock Option

## View Your Options Account

JEFFREY MILLER

<a href="#">Grant Listing</a>	<a href="#">Transaction History</a>	<a href="#">Order Summary</a>	<a href="#">Tax Summary</a>	<a href="#">Account Information</a>	<a href="#">Your Portfolio</a>
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View Options: [Option Summary](#) [Go!](#)Sort By: [Grant Date](#) [Go!](#)

<u>Grant Date</u> (mm/dd/yyyy)	<u>Grant Type</u>	<u>Shares</u> <u>Granted</u>	<u>Grant Price</u>	<u>Shares</u> <u>Outstanding</u>	<u>Shares</u> <u>Exercisable</u>	<u>Expiration</u> <u>Date</u> (mm/dd/yyyy)	
01/12/1998	NQ	416	\$13.4500	416	416	01/14/2008	<a href="#">Details</a>
01/11/1999	NQ	416	\$20.6400	416	416	01/13/2009	<a href="#">Details</a>
02/05/1999	NQ	100	\$18.6600	100	100	02/06/2009	<a href="#">Details</a>
01/07/2000	NQ	1,030	\$17.1300	1,030	1,030	01/08/2010	<a href="#">Details</a>
01/02/2001	NQ	1,031	\$11.8800	1,031	1,031	01/03/2011	<a href="#">Details</a>
01/02/2001	ISO	3,294	\$11.8800	3,294	3,294	01/01/2011	<a href="#">Details</a>
01/02/2002	ISO	8,059	\$13.6000	8,059	8,059	01/01/2012	<a href="#">Details</a>
04/24/2003	ISO	4,800	\$8.4300	4,800	3,200	04/23/2013	<a href="#">Details</a>
<b>Total</b>		19,146		19,146	17,546		

### View Your Account Documents

Click here to view your account documents online. Please note that documents are only available online if your company has elected to use this feature. Therefore, if you participate in multiple companies' plans, you will only have access to the documents of the companies that have elected this feature.

The expiration date noted above is the date your Company has provided SB as the last day in which you may exercise your stock options. In order to exercise your stock options prior to expiration, SB must enter your order prior to the close of the U.S. market ("Market") on which your Company's stock trades (The NASDAQ, NYSE and AMEX hours are currently 9:30 am to 4:00 pm ET). Therefore, please leave enough time for (i) you to contact SB, (ii) you to provide SB with appropriate instructions and (iii) SB to process the trade. If your expiration date falls on a day the Market is closed, you must exercise before the expiration day and on a day in which the Market is open.

Please note: Your order (whether a market order or limit order) will be filled in accordance with the priority rules of the appropriate market. Therefore, there is no guarantee that your order will be filled. Please reference the specifics of market and limit orders to determine which is appropriate for you.

### Option Summary View

The grant listing option summary is a concise report that displays the date, type, grant price and number of stock options that have been granted to you as well as the portion of your stock options that are exercisable and outstanding. This quantity of shares outstanding may include unvested shares plus vested shares that have not been exercised as well as the date these shares expire if they are not exercised. The quantity of shares exercisable displays the number of vested stock options currently available to be exercised. These values will increase every time a grant becomes vested or an open order is cancelled. The values are decreased when an order is placed and option is exercised. You have the ability to customize the

<https://benefits.smithbarney.com/servlets/opGrantServlet?options=Option+Summary&sort=...> 6/14/2005

## **EXHIBIT C**

## **DELPHI CORPORATION ANNUAL INCENTIVE PLAN**

### **1. PURPOSE OF THE PLAN**

The purposes of the Delphi Corporation Annual Incentive Plan ("the Plan") are to reward performance and provide future incentives to employees who contribute to the success of the business.

### **2. EFFECTIVE DATE AND DURATION OF THE PLAN**

This Plan becomes effective on the earlier of the first business day following receipt of shareholder approval and June 1, 2004. Awards may be made under this Plan until May 31, 2009.

### **3. PLAN ADMINISTRATION AND ELIGIBILITY**

- (a) The Compensation and Executive Development Committee of the Delphi Corporation Board of Directors (the "Committee"), as from time to time constituted pursuant to the By-Laws of Delphi Corporation ("Delphi," or the "Corporation"), may, prior to June 1, 2009, authorize annual target award grants to employees. The Committee, in its sole discretion, determines the performance levels at which different percentages of such awards will be earned, the collective amount for all awards to be granted at any one time, and the individual annual grants with respect to employees who are members of the Delphi Strategy Board (the "Strategy Board") and any officer of the Corporation who is not on the Strategy Board but is subject to the requirements of Section 16 of the Securities Exchange Act of 1934, as amended (a "Section 16 Officer"). The Committee may delegate to the Strategy Board responsibility for determining, within the limits established by the Committee, individual award grants for employees who are not Strategy Board members and who are not Section 16 Officers. All such awards will be denominated and paid in cash (U.S. dollars or local currency equivalent).
- (b) Full power and authority to construe and interpret the Plan are vested in the Committee. The Committee determines the selection of employees for participation in the plan and also decides any questions and settles any disputes or controversies that may arise. Any person who accepts any award hereunder agrees to accept as final, conclusive, and binding all determinations of the Committee and the Strategy Board. The Committee has the right, in the case of participants not employed in the United States, to vary from the provisions of the Plan in order to preserve its incentive features.
- (c) Only persons who are employees of the Corporation are eligible to receive an award under the Plan. Subject to such additional limitations or restrictions as the Committee may impose, the term "employees" means persons (i) who are employed by the Corporation, or any subsidiary (as defined below), including employees who are also directors of the Corporation or any such subsidiary, or (ii) who accept (or previously have accepted) employment, at the request of the Corporation, with any entity that is not a subsidiary but in which the Corporation has, directly or indirectly, a substantial ownership interest. For purposes of this Plan, the term "subsidiary" means (i) a corporation of which the Corporation owns, directly or indirectly, capital stock having ordinary voting power to elect a majority of the board of directors of such corporation, or (ii) any unincorporated entity of which the Corporation can exercise, directly or indirectly, comparable control. The Committee will determine when and to what extent individuals otherwise eligible for consideration become employees and when any individual will be deemed to have terminated employment for purposes of the Plan. To the extent determined by the Committee, the term employees will include former employees and any executor(s), administrator(s), or other legal representatives of an employee's estate.

### **4. DETERMINATION OF ANNUAL INCENTIVE AWARD**

- (a) Prior to the grant of any target award, the Committee will establish performance levels for each such award related to the enterprise (as defined below) at which 100% of the award will be earned and a range (which need not be the same for all awards) within which greater and lesser percentages will be earned. The term "enterprise" means the Corporation, or any unit or portion thereof, and any entities in which the

Corporation has, directly or indirectly, a substantial ownership interest. The establishment of performance levels by the Committee will occur no later than 90 days into the performance period. The "performance period" is a calendar year.

- (b) With respect to the performance levels to be established, the Committee will establish the specific measures for each grant at the time of such grant. In creating these measures, the Committee may establish the specific goals based upon or relating to one or more of the following business criteria: return on assets, return on net assets, asset turnover, return on equity, return on capital, market price appreciation of Delphi common stock, economic value added, total stockholder return, net income, pre-tax income, earnings per share, operating profit margin, net income margin, sales margin, cash flow, market share, inventory turnover, sales growth, capacity utilization, increase in customer base, environmental health and safety, diversity, and/or quality. The business criteria may be expressed in absolute terms or relative to the performance of other companies or to an index. When establishing performance goals for a performance period, the Committee may exclude any or all "extraordinary items" as determined under U.S. generally accepted accounting principles including, without limitation, the charges or costs associated with restructurings of the Corporation, discontinued operations, other unusual or non-recurring items, and the cumulative effects of accounting changes.
- (c) No target award will be granted to any director of the Corporation who is not an employee at the date of grant.
- (d) The Committee may adjust the performance levels and goals for any performance period as it deems equitable in recognition of unusual or non-recurring events affecting the Corporation, changes in applicable tax laws or accounting principles, or such other factors as the Committee may determine to preserve the incentive features of the this Plan (including, without limitation, any adjustments that would result in the Company paying non-deductible compensation to a Participant). If any event occurs during a performance period that requires changes to preserve the incentive features of the Plan, the Committee may make appropriate adjustments.

## **5. DETERMINATION OF FINAL AWARD**

- (a) Except as otherwise provided in the Plan, the percentage of each target award to be distributed to an employee will be determined by the Committee on the basis of the performance levels established for such award and the performance of the applicable enterprise or specified portion thereof, as the case may be, during the performance period. Following determination of the final payout percentage, the Committee may, upon the recommendation of the Chief Executive Officer, make adjustments to awards for Strategy Board members and to Section 16 Officers to reflect individual performance during such period, which for covered officers will involve only negative discretion. The term "covered officer" means any individual whose compensation in the year of the expected payment of an award will be subject to the provision of Section 162(m) of the Internal Revenue Code of 1986, as amended (the "Code"). Adjustments to awards to reflect individual performance for employees who are not Strategy Board members and who are not Section 16 Officers may be made by the Strategy Board. Any target award, as determined and adjusted, is herein referred to as a "final award." No award will be paid to a "covered officer" unless the Committee certifies the performance in writing. The total award paid to any employee for any year will not exceed \$7.5 million.
- (b) Payment of any final award (or portion thereof) to an employee is subject to the satisfaction of the conditions precedent that such employee: (i) continue to render services as an employee (unless this condition is waived by the Committee), (ii) refrain from engaging in any activity which, in the opinion of the Committee, is competitive with any activity of the Corporation or any subsidiary (except that employment at the request of the Corporation with an entity in which the Corporation has, directly or indirectly, a substantial ownership interest, or other employment specifically approved by the Committee, may not be considered to be an activity which is competitive with any activity of the Corporation or any subsidiary) and from otherwise acting, either prior to or after termination of employment, in any manner inimical or in any way contrary to the best interests of the Corporation, and (iii) furnish to the Corporation such information with respect to the satisfaction of the foregoing conditions precedent as the Committee may reasonably request.

## **6. TREATMENT OF AWARDS UPON EMPLOYEE'S DEATH OR TERMINATION OF EMPLOYMENT**

- (a) If an employee is dismissed for cause or quits employment at any time, without the prior written consent of the Corporation, except as otherwise determined by the Committee, the award will terminate on the date of termination of employment.
- (b) If, upon death or a qualified termination of an employee's employment prior to the end of any performance period the Committee will determine whether to waive the condition precedent of continuing to render services as provided in paragraph 3(c) and the target award granted to such employee with respect to such performance period will be reduced pro rata based on the number of months remaining in the performance period after the month of death or termination. The final award for such employee will be determined by the Committee (i) on the basis of the performance levels established for such award (including the minimum performance level) and the performance level achieved through the end of the performance period and (ii) in the discretion of the Committee, on the basis of individual performance during the period prior to death or termination.

A qualified termination will include a retirement, permanent medical disability or any other termination, as approved by the Committee, albeit not described herein.

A qualifying leave of absence, determined in accordance with procedures established by the Committee, will not be deemed to be a termination of employment but, except as otherwise determined by the Committee, the employee's target award will be reduced pro rata based on the number of months during which such person was on such leave of absence during the performance period. A target award will not vest during a leave of absence granted an employee for government service.

## **7. CHANGE IN CONTROL**

Upon the effective date of any Change in Control of the Corporation all outstanding unvested awards granted under this Plan will vest and be paid on a pro rata basis based on the greater of target award or actual performance. A "Change in Control" will mean the occurrence of one or more of the following events unless a majority of the "Continuing Directors" has specifically approved such event in advance of its occurrence: (a) any "person" or "group" as those terms are used in the Securities Exchange Act of 1934, as amended, other than any employee benefit plan of the Corporation or Delphi or a trustee or other administrator or fiduciary holding securities under an employee benefit plan of the Corporation, is or becomes the current beneficial owner of Delphi voting securities representing 25% or more of the combined voting power of Delphi's then outstanding securities; (b) during any two-year period, individuals who at the beginning of such period constitute the Board and any new directors whose election to the Board or nomination for election by the Corporation's stockholders was approved by at least two-thirds of the directors still in office who either were directors at the beginning of the period or whose election was previously so approved (the "Continuing Directors"), cease for any reason to constitute a majority thereof; (c) Delphi merges or consolidates with any other corporation or other entity, other than a merger or consolidation (i) that would result in all or a portion of the voting securities of Delphi outstanding immediately prior thereto continuing to represent (either by remaining outstanding or by being converted into voting securities of the surviving entity) more than 50% of the combined voting securities of Delphi and such surviving entity outstanding immediately after such merger or consolidation or (ii) by which the corporate existence of Delphi is not affected and following which Delphi's chief executive officer would retain his or her position with Delphi and the Delphi directors would remain on the Board of the Corporation and constitute a majority thereof; (d) Delphi sells or otherwise disposes of all or substantially all of its assets; or (e) the stockholders of the Corporation approve a plan of complete liquidation of Delphi.

## **8. PLAN AMENDMENT, MODIFICATION, SUSPENSION OR TERMINATION**

The Committee may, in its sole discretion, at any time, amend, modify, suspend, or terminate this Plan provided that no such action (i) adversely affects the rights of an employee with respect to previous target awards or final awards under the Plan (except as otherwise permitted), and the Plan, as constituted prior to such action,

continues to apply with respect to target awards previously granted and final awards which have not been paid or (ii) without the approval of the stockholders, if such approval is required to preserve the exemption of awards granted under the plan from the limitations of deductibility of Section 162(m), (a) increases the limit on the maximum amount of final awards for covered officers, (b) renders any director of the Corporation who is not an employee at the date of grant or any member of the Committee or the Audit Committee of the Delphi Corporation Board of Directors, eligible to be granted a target award, or (c) permits any target award to be granted under this Plan after May 31, 2009.

## **9. STATUTE OF LIMITATIONS AND CONFLICT OF LAWS**

Every right of action by, or on behalf of, the Corporation or by any stockholder against any past, present, or future member of the Board of Directors, officer, or employee of the Corporation or its subsidiaries arising out of or in connection with this Plan will, irrespective of the place where action may be brought and irrespective of the place of residence of any such director, officer, or employee, cease and be barred by the expiration of three years from the date of the act or omission in respect of which such right of action arises. Any and all right of action by any employee (past, present, or future) against the Corporation arising out of or in connection with this Plan will, irrespective of the place where an action may be brought, cease and be barred by the expiration of three years from the date of the act or omission in respect of which such right of action arises. This Plan and all determinations made and actions taken pursuant hereto will be governed by the laws of the State of Delaware, without giving effect to principles of conflict of laws, and construed accordingly.

## **10. MISCELLANEOUS**

- (a) All final awards which have been awarded in accordance with the provisions of the Plan will be paid as soon as practicable following the end of the related performance period. If the Corporation has any unpaid claim against an employee arising out of or in connection with the employee's employment with the Corporation, such claim may be offset against awards under the Plan. Such claim may include, but is not limited to, unpaid taxes, the obligation to repay gains received under the Delphi Long Term Incentive Plan, or Corporate business credit card charges.
- (b) To the extent that any employee, former employee, or any other person acquires a right to receive payments or distributions under this Plan, such right will be no greater than the right of a general unsecured creditor of the Corporation. All payments and distributions will be paid from the general assets of the Corporation. Nothing contained in the Plan, and no action taken pursuant to its provisions, will create or be construed to create a trust of any kind or a fiduciary relationship between the Corporation and any employee, former employee, or any other person.
- (c) If an employee is promoted during the award period, a target award may be increased to reflect such employee's new responsibilities.
- (d) The expenses of administering this Plan will be borne by the Corporation.
- (e) Except as otherwise determined by the Committee, with the exception of transfer by will or the laws of descent and distribution, no target or final award is assignable or transferable and, during the lifetime of the employee, any payment of any final award will only be made to the employee.
- (f) In the event of death, the executor(s) or administrator(s) of the employee's estate, or such other person(s) as determined by a court of competent jurisdiction, may receive payment, in accordance with and subject to the provisions of this Plan, provided the executor(s), administrator(s), or other person supplies documentation satisfactory to the Corporation to so act. Upon making such determination, the Corporation is relieved of any further liability regarding any award to the deceased employee.



## **EXHIBIT D**

**Kennedy, Tom (CHI - Associate)**

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**From:** brucerobyn07@aol.com  
**Sent:** Monday, April 12, 2010 5:30 AM  
**To:** Kennedy, Tom (CHI - Associate)  
**Subject:** Re: Claim 20054

WHen I filed the claim I still had months of severence coming to me. I have received all my severence from Delphi. THe claim was to collect that money. I do not have any more claim as long as this is the premise of the stipulation.

Robyn Budd

-----Original Message-----

From: Kennedy, Tom J <ThomasJason.Kennedy@skadden.com>  
To: 'brucerobyn07@aol.com' <brucerobyn07@aol.com>  
Sent: Fri, Apr 9, 2010 6:16 pm  
Subject: FW: Claim 20054

Ms. Budd,

I did not have time to put the stipulation together today. I will try to get it completed sometime early next week. However, since the deadline for us to adjourn the hearing regarding your claim 20054 is approaching, I was hoping to get email confirmation from you stating that you agree with my characterization of the situation below. A quick email stating that you agree will suffice.

Thanks,

**Thomas J. Kennedy**  
Associate  
**Skadden, Arps, Slate, Meagher & Flom LLP**  
155 North Wacker Drive | Chicago | Illinois | 60606-1720  
T: 312.407.0937 | F: 312.827.9320  
[thomasjason.kennedy@skadden.com](mailto:thomasjason.kennedy@skadden.com)

---

**From:** Kennedy, Tom (CHI - Associate)  
**Sent:** Thursday, April 08, 2010 8:33 PM  
**To:** 'brucerobyn07@aol.com'  
**Subject:** Claim 20054

Ms. Budd,

Just to confirm what we discussed over the phone tonight, I understand that you have been paid in full for the severance pay in the amount of \$23,962.50 asserted on claim number 20054 and that you have agreed to withdraw the claim. I will draft a stipulation tomorrow stating as much and will forward it to you for signature.

Thanks,

**Thomas J. Kennedy**  
Associate  
**Skadden, Arps, Slate, Meagher & Flom LLP**  
155 North Wacker Drive | Chicago | Illinois | 60606-1720  
T: 312.407.0937 | F: 312.827.9320  
[thomasjason.kennedy@skadden.com](mailto:thomasjason.kennedy@skadden.com)

----- \*\*\*\*\*

To ensure compliance with Treasury Department regulations, we advise you that, unless otherwise expressly

4/13/2010

indicated, any federal tax advice contained in this message was not intended or written to be used, and cannot be used, for the purpose of (i) avoiding tax-related penalties under the Internal Revenue Code or applicable state or local tax law provisions or (ii) promoting, marketing or recommending to another party any tax-related matters addressed herein.

\*\*\*\*\*

This email (and any attachments thereto) is intended only for use by the addressee(s) named herein and may contain legally privileged and/or confidential information. If you are not the intended recipient of this email, you are hereby notified that any dissemination, distribution or copying of this email (and any attachments thereto) is strictly prohibited. If you receive this email in error please immediately notify me at (212) 735-3000 and permanently delete the original email (and any copy of any email) and any printout thereof.

Further information about the firm, a list of the Partners and their professional qualifications will be provided upon request.

\*\*\*\*\*

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# **EXHIBIT E**

**Hearing Date and Time: April 23, 2010 at 10:00 a.m. (prevailing Eastern time)**  
**Supplemental Response Date and Time: April 21, 2010 at 4:00 p.m. (prevailing Eastern time)**

SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP  
155 North Wacker Drive  
Chicago, Illinois 60606  
John Wm. Butler, Jr.  
John K. Lyons  
Ron E. Meisler

- and -

SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP  
Four Times Square  
New York, New York 10036  
Kayalyn A. Marafioti

Attorneys for DPH Holdings Corp., et al.,  
Reorganized Debtors

DPH Holdings Corp. Legal Information Hotline:  
Toll Free: (800) 718-5305  
International: (248) 813-2698

DPH Holdings Corp. Legal Information Website:  
<http://www.dphholdingsdocket.com>

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

-----	-	x	
	:		
In re	:	Chapter 11	
	:		
DPH HOLDINGS CORP., <u>et al.</u> ,	:	Case Number 05-44481 (RDD)	
	:		
	:	(Jointly Administered)	
Reorganized Debtors.	:		
	:		
-----	-	x	

REORGANIZED DEBTORS' SUPPLEMENTAL REPLY TO RESPONSES OF  
CERTAIN CLAIMANTS TO DEBTORS' OBJECTIONS TO (A) PROOFS OF CLAIM  
NUMBERS 15584, 15585, 15586, 15587, 15588, AND 15595 FILED BY HYUNDAI  
MOTOR COMPANY AND (B) PROOFS OF CLAIM NUMBERS 15589, 15590, 15591,  
15592, 15593, AND 15594 FILED BY HYUNDAI MOTOR AMERICA

("SUPPLEMENTAL REPLY REGARDING  
CERTAIN CONTINGENT CUSTOMER WARRANTY CLAIMS")

DPH Holdings Corp. ("DPH Holdings") and certain of its affiliated reorganized debtors in the above-captioned cases (together with DPH Holdings, the "Reorganized Debtors") hereby submit the Reorganized Debtors' Supplemental Reply To Responses Of Certain Claimants To Debtors' Objections To (A) Proofs Of Claim Numbers 15584, 15585, 15586, 15587, 15588, And 15595 Filed by Hyundai Motor Company And (B) Proofs of Claim Numbers 15589, 15590, 15591, 15592, 15593, And 15594 Filed By Hyundai Motor America (the "Supplemental Reply"), and respectfully represent as follows:

A. Preliminary Statement

1. On October 8 and 14, 2005, Delphi Corporation and certain of its affiliates (the "Debtors"), predecessors of the Reorganized Debtors, filed voluntary petitions in this Court for reorganization relief under chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101-1330, as then amended (the "Bankruptcy Code").

2. On October 6, 2009, the Debtors substantially consummated the First Amended Joint Plan Of Reorganization Of Delphi Corporation And Certain Affiliates, Debtors And Debtors-In-Possession, As Modified (the "Modified Plan"), which had been approved by this Court pursuant to an order entered on July 30, 2009 (Docket No. 18707), and emerged from chapter 11 as the Reorganized Debtors.

3. On March 25, 2010, the Reorganized Debtors filed the Notice Of Sufficiency Hearing With Respect To Debtors' Objections To Proofs Of Claim Nos. 15584, 15586, 15587, 15588, 15590, 15591, 15592, 15593, 15594, And 15595 (Docket No. 19726) (the "First Sufficiency Hearing Notice").

4. On March 25, 2010, the Reorganized Debtors filed the Notice Of Sufficiency Hearing With Respect To Debtors' Objections To Proofs Of Claim Numbers 5268, 13270, 13838, 13880, 15585, 15589, 16925, 17081, 17773, 18049, 18087, 18604, 18740, 20017,

And 20054 (Docket No. 19735) (the "Second Sufficiency Hearing Notice" and collectively with the First Sufficiency Hearing Notice, the "Sufficiency Hearing Notice").

5. The Reorganized Debtors filed the Sufficiency Hearing Notice and are filing this Supplemental Reply to implement Article 9.6(a) of the Modified Plan, which provides that "[t]he Reorganized Debtors shall retain responsibility for administering, disputing, objecting to, compromising, or otherwise resolving all Claims against, and Interests in, the Debtors and making distributions (if any) with respect to all Claims and Interests ...." Modified Plan, art. 9.6(a).

6. By the Sufficiency Hearing Notice and pursuant to the Order Pursuant To 11 U.S.C. § 502(b) And Fed. R. Bankr. P. 2002(m), 3007, 7016, 7026, 9006, 9007, And 9014 Establishing (i) Dates For Hearings Regarding Objections To Claims And (ii) Certain Notices And Procedures Governing Objections To Claims, entered December 7, 2006 (Docket No. 6089) (the "Claims Objection Procedures Order") and the Eleventh Supplemental Order Pursuant To 11 U.S.C. § 502(b) And Fed. R. Bankr. P. 2002(m), 3007, 7016, 7026, 9006, 9007, And 9014 Establishing (i) Dates For Hearings Regarding Objections To Claims And (ii) Certain Notices And Procedures Governing Objections To Claims, entered April 5, 2010 (Docket No. 19776), the Reorganized Debtors scheduled a sufficiency hearing (the "Sufficiency Hearing") on April 23, 2010<sup>1</sup> at 10:00 a.m. (prevailing Eastern time) in this Court to address the legal sufficiency of each proof of claim filed by the claimants listed on Exhibit A to the Sufficiency Hearing Notice and whether each such proof of claim states a colorable claim against the asserted Debtor.

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<sup>1</sup> Pursuant to the Sufficiency Hearing Notice, filed March 25, 2010, the Sufficiency Hearing was scheduled for April 22, 2010. Pursuant to direction of this Court, the Sufficiency Hearing was rescheduled for April 23, 2010 at 10:00 a.m. (prevailing Eastern time).

7. This Supplemental Reply is filed pursuant to paragraph 9(b)(i) of the Claims Objection Procedures Order. Pursuant to paragraph 9(b)(ii) of the Claims Objection Procedures Order, if a Claimant wishes to file a supplemental pleading in response to this Supplemental Reply, the Claimant shall file and serve its response no later than two business days before the scheduled Sufficiency Hearing – i.e., by April 21, 2010.

B. Relief Requested

8. By this Supplemental Reply, the Reorganized Debtors request entry of an order disallowing and expunging certain proofs of claim filed by Hyundai Motor Company ("HMC") or Hyundai Motor America ("HMA," and together with HMC, "Hyundai") asserting contingent claims for potential breaches of contracts with the Debtors.

C. Contingent Breach Of Contract Claims

9. During their review of the proofs of claim filed in these cases, the Debtors determined that certain proofs of claim numbers 15584, 15585, 15586, 15587, 15588, and 15595 that were filed by Hyundai Motor Company (the "HMC Claims") and proofs of claim numbers 15589, 15590, 15591, 15592, 15593, and 15594 filed by Hyundai Motor America (the "HMA Claims," and together with the HMC Claims, the "Contingent Breach of Contract Claims" or the "Claims") assert a breach of contract claim that is not owing pursuant to the Reorganized Debtors' books and records. The Reorganized Debtors believe that Hyundai is not a creditor of the Debtors. Accordingly, this Court should enter an order disallowing and expunging each such proof of claim in its entirety.

10. The Contingent Breach of Contract Claims Asserted Against The Debtors. On July 31, 2006, HMC filed proof of claim number 15584 against Delphi Automotive Systems Korea, Inc. ("DAS Korea"), a Debtor in these cases, in an unliquidated amount based on (a) an existing or future breach of an agreement between Hyundai and DAS Korea (the document is



written in Korean and is attached to proof of claim) and (b) certain indemnity, contribution, common law, commercial, or other rights as related to (i) that action in the United States District Court, Eastern District of Michigan, Southern Division titled Automotive Technologies International, Plaintiff, V. BMW Of North America, Inc et. al, Defendants, Case No. 01-CV-71700-DT (the "Michigan Action"), and the appeals arising from such action, and/or (ii) that action in the United States District Court, District of Delaware, titled Automotive Technologies International, Plaintiff, V. Hyundai Motor America, et. al, Defendants, Case No. 06-391 (the "Delaware Action," and together with the Michigan Action, the "Actions").

11. On July 31, 2006, HMC filed proof of claim number 15585 against Delphi Corporation ("Delphi"), a Debtor in these cases, in an unliquidated amount based on existing or future breach of certain agreements<sup>2</sup> and asserted that the contractual relationship may give rise to certain indemnity, contribution, common law, commercial, or other rights as related to the Actions.

12. On July 31, 2006, HMC filed proof of claim number 15586 against Delphi Electronics (Holding) LLC ("Delphi Electronics"), a Debtor in these cases, in an unliquidated amount based on (a) existing or future breach of a Basic Agreement Regarding Business Transactions between Hyundai Motor Company and Delco Electronics, LLC, formerly Delco

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<sup>2</sup> According to Hyundai's response to the Thirty-Eighth Omnibus Claims Objection, the certain agreements include without limitation (i) Basic Agreement Regarding Business Transactions between Hyundai Motor Company and Delco Electronics, LLC, formerly Delco Electronics Corporation, dated as of June 29, 1993, (ii) that certain Basic Agreement Regarding Business Transactions between Hyundai Motor Company and Delphi Automotive Systems, LLC, dated as of December 7, 2004, (iii) Basic Agreement Regarding Business Transactions between Hyundai Motor Company, Kia Motor Company and Delphi Diesel Systems France SAS, dated as of October 20, 2003, (iv) Basic Agreement, Quality Assurance Agreement and Claim Compensation Agreement each concluded on January 1, 2002 between Delphi and Hyundai Motor Company, and (v) that certain Product Liability Agreement between Hyundai Motor Company and its affiliates and Delphi Automotive Systems LLC and its affiliates dated October 15, 2007 (as supplemented from time to time, and along with any other agreements between the parties, the "Agreements").

Electronics Corporation, dated as of June 29, 1993 and (b) certain indemnity, contribution, common law, commercial, or other rights as related to the Actions.

13. On July 31, 2006, HMC filed proof of claim number 15587 against Delphi Automotive Systems LLC ("DAS LLC"), a Debtor in these cases, in an unliquidated amount based on (a) existing or future breach of that certain Basic Agreement Regarding Business Transactions between Hyundai Motor Company and Delphi Automotive Systems, LLC, dated as of December 7, 2004 and (b) certain indemnity, contribution, common law, commercial, or other rights as related to the Actions.

14. On July 31, 2006, HMC filed proof of claim number 15588 against Delco Electronics Overseas Corporation ("DEOC"), a Debtor in these cases, in an unliquidated amount based on (a) existing or future breach of a Basic Agreement Regarding Business Transactions Between Hyundai Motor Company and Delco Electronics LLC, formerly Delco Electronics Corporation, dated as of June 29, 1993 and (b) certain indemnity, contribution, common law, commercial, or other rights as related to the Actions.

15. On July 31, 2006, HMC filed proof of claim number 15595 against Delphi Diesel Systems Corp. ("Delphi Diesel") in an unliquidated amount based on (a) existing or future breach of a Basic Agreement Regarding Business Transactions between Hyundai, Kia Motor Company and Delphi Diesel Systems France SAS, dated as of October 20, 2003 and (b) certain indemnity, contribution, common law, commercial, or other rights as related to the Actions.

16. On July 31, 2006, HMA filed proof of claim number 15589 against Delphi in an unliquidated amount based on existing or future breach of the Agreements and asserted that the contractual relationship may give rise to certain indemnity, contribution, common law, commercial, or other rights as related to the Actions.

17. On July 31, 2006, HMA filed proof of claim number 15590 against DAS Korea an unliquidated amount based on (a) an existing or future breach of an agreement between Hyundai and DAS Korea (the document is written in Korean and is attached to proof of claim) and (b) certain indemnity, contribution, common law, commercial, or other rights as related to the Actions.

18. On July 31, 2006, HMA filed proof of claim number 15591 against Delphi Electronics in an unliquidated amount based on (a) existing or future breach of a Basic Agreement Regarding Business Transactions between Hyundai Motor Company and Delco Electronics, LLC, formerly Delco Electronics Corporation, dated as of June 29, 1993 and (b) certain indemnity, contribution, common law, commercial, or other rights as related to the Actions.

19. On July 31, 2006, HMA filed proof of claim number 15592 against DAS LLC in an unliquidated amount based on (a) existing or future breach of that certain Basic Agreement Regarding Business Transactions between Hyundai Motor Company and Delphi Automotive Systems, LLC, dated as of December 7, 2004 and (b) certain indemnity, contribution, common law, commercial, or other rights as related to the Actions.

20. On July 31, 2006, HMA filed proof of claim number 15593 against DEOC in an unliquidated amount based on (a) existing or future breach of a Basic Agreement Regarding Business Transactions between Hyundai Motor Company and Delco Electronics, LLC, formerly Delco Electronics Corporation, dated as of June 29, 1993 and (b) certain indemnity, contribution, common law, commercial, or other rights as related to the Actions.

21. On July 31, 2006, HMA filed proof of claim number 15594 against Delphi Diesel in an unliquidated amount based on (a) existing or future breach of a Basic

Agreement Regarding Business Transactions between Hyundai Motor Company, Kia Motor Company and Delphi Diesel Systems France SAS, dated as of October 20, 2003 and (b) certain indemnity, contribution, common law, commercial, or other rights as related to the Actions.

22. The Debtors' Objections To the Contingent Breach of Contract Claims.

On February 15, 2007, the Debtors filed the Debtors' Eighth Omnibus Objection (Procedural) Pursuant To 11 U.S.C. § 502(b) And Fed. R. Bankr. P. 3007 To Certain (A) Duplicate And Amended Claims, (B) Claims Duplicative Of Consolidated Trustee Claim, (C) Equity Claims, And (D) Protective Claims (Docket No. 6962) ("Eighth Omnibus Claims Objection"), by which the Debtors objected to proofs of claim numbers 15584, 15586, 15587, 15588, 15590, 15591, 15592, 15593, 15594, and 15595 on the grounds that those proofs of claim were duplicative of proofs of claim numbers 15585 and 15589 and sought an order disallowing and expunging the duplicative proofs of claim.

23. On March 16, 2007, the Debtors filed the Debtors' Tenth Omnibus Objection (Procedural) Pursuant To 11 U.S.C. § 502(b) And Fed. R. Bankr. P. 3007 To Certain (A) Duplicate And Amended Claims And (B) Equity Claims (Docket No. 7300) ("Tenth Omnibus Claims Objection"), by which the Debtors objected to proofs of claim numbers 15587 and 15592 on the grounds that those proofs of claim were duplicative of proofs of claim numbers 15585 and 15589 and sought an order disallowing and expunging the duplicative proofs of claim.

24. On November 6, 2009, the Reorganized Debtors filed the Reorganized Debtors' Thirty-Eighth Omnibus Objection Pursuant To 11 U.S.C. § 502(b) And Fed. R. Bankr. P. 3007 To (I) Expunge Certain (A) Equity Interests, (B) Books And Records Claims, (C) Untimely Claims, (D) Pension, Benefit, And OPEB Claims, And (E) Workers' Compensation Claims And (II) Modify And Allow Certain Claims (Docket No. 19044) ("Thirty-Eighth

Omnibus Claims Objection"), by which the Reorganized Debtors objected to proofs of claim numbers 15585 and 15589 on the grounds that those proofs of claim were not reflected on the Reorganized Debtors' books and records and sought an order disallowing and expunging those proofs of claim.

25. Hyundai's Responses To The Debtors' Objections. On March 14, 2007, HMC filed its response to the Eighth Omnibus Claims Objection (Docket No. 7217), in which it asserts that the proofs of claim numbers 15584, 15586, 15588, and 15595 assert different obligations against different Debtors than proof of claim number 15585 and should not be expunged.

26. On March 14, 2007, HMA filed its response to the Eighth Omnibus Claims Objection (Docket No. 7214), in which it asserts that the proofs of claim numbers 15590, 15591, 15593, and 15594 assert different obligations against different Debtors than proof of claim number 15589 and should not be expunged.

27. On April 12, 2007, HMC filed its response to the Tenth Omnibus Claims Objection (Docket No. 7651), in which it asserts that the proof of claim number 15587 asserts different obligations against different Debtors than proof of claim number 15585 and should not be expunged.

28. On April 12, 2007, HMA filed its response to the Tenth Omnibus Claims Objection (Docket No. 7652), in which it asserts that the proof of claim number 15592 asserts different obligations against different Debtors than proof of claim number 15589 and should not be expunged.

29. On December 7, 2009, Hyundai filed its response to the Thirty-Eighth Omnibus Claims Objection (Docket No. 19151), in which it asserts that Hyundai may have

contingent, unknown claims against Delphi and proofs of claim numbers 15585 and 15589 should not be expunged.

30. The Sufficiency Hearing Notice. Pursuant to the Claims Objection Procedures Order, the hearing on the Debtors' objection to the Contingent Breach of Contract Claims was adjourned to a future date. On November 18, 2009, the Reorganized Debtors filed the Sufficiency Hearing Notice with respect to the Contingent Breach of Contract Claims, among other proofs of claim, scheduling the Sufficiency Hearing.

D. Claimants' Burden Of Proof And Standard For Sufficiency Of Claim

31. The Reorganized Debtors respectfully submit that the each Claim fails to state a claim against the Debtors under rule 7012 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"). Hyundai has not proved any facts to support a right to payment by the Reorganized Debtors on behalf of the Debtors. Accordingly, the Debtors' objections to each Contingent Breach of Contract Claim should be sustained with respect to each such proof of claim and each Contingent Breach of Contract Claim should be disallowed and expunged in its entirety, subject to any rights the Claimant may have under to section 502(j) of the Bankruptcy Code.

32. The burden of proof to establish a claim against the Debtors rests on the claimants and, if a proof of claim does not include sufficient factual support, such proof of claim is not entitled to a presumption of prima facie validity pursuant to Bankruptcy Rule 3001(f). In re Spiegel, Inc., No. 03-11540, 2007 WL 2456626, at \*15 (Bankr. S.D.N.Y. August 22, 2007) (the claimant always bears the burden of persuasion and must initially allege facts sufficient to support the claim); see also In re WorldCom, Inc., No. 02-13533, 2005 WL 3832065, at \*4 (Bankr. S.D.N.Y. Dec. 29, 2005) (only a claim that alleges facts sufficient to support legal liability to claimant satisfies claimant's initial obligation to file substantiated proof of claim); In

re Allegheny Int'l., Inc., 954 F.2d 167, 173 (3d Cir. 1992) (in its initial proof of claim filing, claimant must allege facts sufficient to support claim); In re Chiro Plus, Inc. 339 B.R. 111, 113 (Bankr. D.N.J. 2006) (claimant bears initial burden of sufficiently alleging claim and establishing facts to support legal liability); In re Armstrong Finishing, L.L.C., No. 99-11576-C11, 2001 WL 1700029, at \*2 (Bankr. M.D.N.C. May 2, 2001) (only when claimant alleges facts sufficient to support its proof of claim is it entitled to have claim considered prima facie valid); In re United Cos. Fin. Corp., 267 B.R. 524, 527 (Bankr. D. Del. 2000) (claimant must allege facts sufficient to support legal basis for its claim to have claim make prima facie case).

33. For purposes of sufficiency, this Court has determined that the standard of whether a Claimant has met its initial burden of proof to establish a claim should be similar to the standard employed by courts in deciding a motion to dismiss under Bankruptcy Rules 7012 and 9014. See Transcript of January 12, 2007 Hearing (Docket No. 7118) (the "January 12, 2007 Transcript") at 52:24-53:1. Pursuant to that standard, a motion to dismiss should be granted "if it plainly appears that the nonmovant 'can prove no set of facts in support of his claim which would entitle him to relief.'" In re Lopes, 339 B.R. 82, 86 (Bankr. S.D.N.Y. 2006) (quoting Conley v. Gibson, 355 U.S. 41, 45-46 (1957)). Essentially, the claimant must provide facts that sufficiently support a legal liability against the Debtors.

34. This Court further established that the sufficiency hearing standard is consistent with Bankruptcy Rule 3001(f), which states that "a proof of claim executed and filed in accordance with these Rules shall constitute prima facie evidence of the validity and amount of the claim." Fed. R. Bankr. P. 3001(f) (emphasis added). Likewise, Bankruptcy Rule 3001(a) requires that "the proof of claim must be consistent with the official form" and Bankruptcy Rule

3001(c) requires "evidence of a writing if the claim is based on a writing." Fed. R. Bankr. P. 3001(a), (c). See January 12, 2007 Transcript at 52:17-22.

E. Argument Regarding The Contingent Breach of Contract Claims.

35. To the Reorganized Debtors' knowledge, no breach of contract has occurred that would trigger a claim under the contracts upon which the Contingent Breach of Contract Claims are based. Hyundai, in its proofs of claim and its responses to the Debtors' objections to the Contingent Breach of Contract Claims, has not proved any set of facts that support a right to payment from the Reorganized Debtors. Accordingly, the Reorganized Debtors assert that (a) Hyundai has not met its burden of proof to establish a claim against the Debtors, (b) the Contingent Breach of Contract Claims are not entitled to a presumption of prima facie validity pursuant to Bankruptcy Rule 3001(f), and (c) the Contingent Breach of Contract Claims fail to state a claim against the Reorganized Debtors under Bankruptcy Rule 7012. Because Hyundai cannot provide facts or law supporting its claims, the Eighth Omnibus Claims Objection, the Tenth Omnibus Claims Objection, and the Thirty-Eighth Omnibus Claims Objection should be sustained as to the Contingent Breach of Contract Claims and each such claim should be disallowed and expunged in its entirety.

36. In addition, the Debtors request that this Court enter an order disallowing and expunging the Contingent Breach of Contract Claims pursuant to section 502(e)(1)(B) of the Bankruptcy Code to the extent that such claims assert contingent liabilities for indemnification from the Debtors for amounts owed to third parties. Section 502(e)(1)(B) of the Bankruptcy Code provides that a bankruptcy court is to disallow any claim for reimbursement or contribution of an entity that is liable with the debtor on or has secured the claim of a creditor to the extent that "such claim for reimbursement or contribution is contingent as of the time of allowance or disallowance of such claim for reimbursement or contribution." 11 U.S.C. § 502(e)(1)(B); see



also Aetna Cas. & Sur. Co. v. Georgia Tubing Corp., 93 F.3d 56 (2d Cir. 1996) (disallowing surety bond issuer's contingent prospective subrogation claims as to bonds issued on behalf of debtor); In re Agway, Inc., 2008 WL 2827439, at \*3 (Bankr. N.D.N.Y. July 18, 2008) (section 502(e)(1)(B) directs that the court "shall disallow" any claim for reimbursement or contribution to the extent that such claim is contingent at the time of disallowance).

WHEREFORE the Reorganized Debtors respectfully request this Court enter an order (a) sustaining the objections with respect to the Contingent Breach of Contract Claims, (b) disallowing and expunging each Contingent Breach of Contract Claim in its entirety subject to any right claimant may have under section 502(j) of the Bankruptcy Code, and (c) granting such further and other relief this Court deems just and proper.

Dated: New York, New York  
April 13, 2010

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## **EXHIBIT F**

**Hearing Date and Time: April 23, 2010 at 10:00 a.m. (prevailing Eastern time)**  
**Supplemental Response Date and Time: April 21, 2010 at 4:00 p.m. (prevailing Eastern time)**

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UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

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In re	:	Chapter 11
	:	
DPH HOLDINGS CORP., <u>et al.</u> ,	:	Case Number 05-44481 (RDD)
	:	
	:	(Jointly Administered)
Reorganized Debtors.	:	
	:	
-----	x	

**REORGANIZED DEBTORS' SUPPLEMENTAL REPLY TO  
RESPONSE OF CLAIMANT TO DEBTORS' OBJECTION TO PROOFS  
OF CLAIM NUMBERS 5268, 13270, 13838, AND 13880 FILED BY THE UAW**

**("SUPPLEMENTAL REPLY REGARDING CERTAIN UAW CLAIMS")**

DPH Holdings Corp. and certain of its affiliated reorganized debtors in the above-captioned cases (together with DPH Holdings Corp., the "Reorganized Debtors") hereby submit the Reorganized Debtors' Supplemental Reply To Response Of Claimant To Debtors' Objection To Proofs Of Claim Numbers 5268, 13270, 13838, And 13880 Filed By The UAW (the "Supplemental Reply"), and respectfully represent as follows:

A. Preliminary Statement

1. On October 8 and 14, 2005, Delphi Corporation and certain of its affiliates (the "Debtors"), predecessors of the Reorganized Debtors, filed voluntary petitions in this Court for reorganization relief under chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101-1330, as then amended (the "Bankruptcy Code").

2. On October 6, 2009, the Debtors substantially consummated the First Amended Joint Plan Of Reorganization Of Delphi Corporation And Certain Affiliates, Debtors And Debtors-In-Possession, As Modified (the "Modified Plan"), which had been approved by this Court pursuant to an order entered on July 30, 2009 (Docket No. 18707) (the "Plan Modification Order"), and emerged from chapter 11 as the Reorganized Debtors.

3. On March 25, 2010, the Reorganized Debtors filed the Notice Of Sufficiency Hearing With Respect To Debtors' Objections To Proofs Of Claim Numbers 5268, 13270, 13838, 13880, 15585, 15589, 16925, 17081, 17773, 18049, 18087, 18604, 18740, 20017, And 20054 (Docket No. 19735) (the "Sufficiency Hearing Notice").

4. The Reorganized Debtors filed the Sufficiency Hearing Notice and are filing this Supplemental Reply to implement Article 9.6(a) of the Modified Plan, which provides that "[t]he Reorganized Debtors shall retain responsibility for administering, disputing, objecting to, compromising, or otherwise resolving all Claims against, and Interests in, the Debtors and

making distributions (if any) with respect to all Claims and Interests ...." Modified Plan, art. 9.6(a).

5. By the Sufficiency Hearing Notice and pursuant to the Order Pursuant To 11 U.S.C. § 502(b) And Fed. R. Bankr. P. 2002(m), 3007, 7016, 7026, 9006, 9007, And 9014 Establishing (i) Dates For Hearings Regarding Objections To Claims And (ii) Certain Notices And Procedures Governing Objections To Claims, entered December 7, 2006 (Docket No. 6089) (the "Claims Objection Procedures Order") and the Eleventh Supplemental Order Pursuant To 11 U.S.C. § 502(b) And Fed. R. Bankr. P. 2002(m), 3007, 7016, 7026, 9006, 9007, And 9014 Establishing (i) Dates For Hearings Regarding Objections To Claims And (ii) Certain Notices And Procedures Governing Objections To Claims, entered April 5, 2010 (Docket No. 19776), the Reorganized Debtors scheduled a hearing (the "Sufficiency Hearing") on April 23, 2010<sup>1</sup> at 10:00 a.m. (prevailing Eastern time) in this Court to address the legal sufficiency of each proof of claim filed by the claimants listed on Exhibit A to the Sufficiency Hearing Notice and whether each such proof of claim states a colorable claim against the asserted Debtor.

6. This Supplemental Reply is filed pursuant to paragraph 9(b)(i) of the Claims Objection Procedures Order. Pursuant to paragraph 9(b)(ii) of the Claims Objection Procedures Order, if a Claimant wishes to file a supplemental pleading in response to this Supplemental Reply, the Claimant shall file and serve its response no later than two business days before the scheduled Sufficiency Hearing – i.e., by **April 21, 2010.**

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<sup>1</sup> Pursuant to the Sufficiency Hearing Notice, filed March 25, 2010, the Sufficiency Hearing was scheduled for April 22, 2010. Pursuant to direction of this Court, the Sufficiency Hearing was rescheduled for April 23, 2010 at 10:00 a.m. (prevailing Eastern time).

B. Relief Requested

7. By this Supplemental Reply, the Reorganized Debtors request entry of an order disallowing and expunging four proofs of claim filed by the International Union, United Automobile, Aerospace and Agricultural Implement Workers of America and its applicable local unions (collectively, the "UAW") which were waived and released pursuant to orders of this Court.

C. UAW Claims

8. During their review of the proofs of claim filed in these cases, the Reorganized Debtors determined that proofs of claim numbers 5268, 13270, 13838, and 13880 filed by the UAW and/or on behalf of employees and former employees of the Debtors represented or formerly represented by the UAW, and/or on behalf of persons or entities with claims derived from or related to any relationship with such employees or former employees of the Debtors (the "UAW Claims") were, among other things, waived and released pursuant to the settlement agreement between the Debtors and the UAW (the "UAW Settlement Agreement")<sup>2</sup> and the order of this Court approving the UAW Settlement Agreement (the "UAW Settlement Agreement Approval Order") (Docket No. 8693).<sup>3</sup>

9. Pursuant to the UAW Settlement Agreement and the UAW Settlement Agreement Approval Order, the UAW agreed that the UAW Claims are waived and released because the UAW received an allowed prepetition general unsecured claim (the "UAW Allowed

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<sup>2</sup> A copy of the UAW Settlement Agreement is attached to the UAW Settlement Agreement Approval Order.

<sup>3</sup> Although the releases in the UAW Settlement Agreement and UAW Settlement Agreement Order function to waive and withdraw the UAW Claims, other orders of this Court may also do the same. For instance, those releases were incorporated into the Modified Plan (see Modified Plan, Article XI, Section 11.6) as approved by Plan Modification Order. Further, the Plan Modification Order also contains additional bars to certain UAW Claims, such as those related to the Delphi-PBGC Settlement Agreement (as defined in the Plan Modification Order, see Paragraph 60(b)).

Claim").<sup>4</sup> Accordingly, this Court should enter an order disallowing and expunging the UAW Claims in their entirety.

10. The Reorganized Debtors' Objection To The UAW Claims. On February 3, 2010, the Reorganized Debtors objected to the UAW Claims on the Reorganized Debtors' Forty-Fourth Omnibus Objection Pursuant To 11 U.S.C. § 502(b) And (d) And Fed. R. Bankr. P. 3007 To (I) Modify And Allow (A) Certain Modified And Allowed Claims, (B) A Partially Satisfied Claim, And (C) Certain Partially Satisfied Scheduled Liabilities, (II) Disallow And Expunge (A) Certain Fully Satisfied Scheduled Liabilities, (B) Certain MDL-Related Claims, (C) Certain Union Claims, (D) Certain Personal Injury Claims, And (E) A Duplicate Claim, (III) Object To Certain (A) Preference-Related Claims And (B) Preference-Related Scheduled Liabilities, and (IV) Modify Certain SERP-Related Scheduled Liabilities (the "Forty-Fourth Omnibus Claims Objection") (Docket No. 19395).

11. Response To The Debtors' Objection. On March 15, 2010, the UAW filed a response to the Forty-Fourth Omnibus Claims Objection (the "UAW Response") (Docket No. 19669). In the UAW Response, the UAW agreed that, pursuant to the UAW Settlement Agreement and UAW Settlement Agreement Approval Order, the UAW Claims should be withdrawn because the UAW Allowed Claim survives. However, the UAW refused to consent to the withdrawal of the UAW Claims until the amount of the UAW Allowed Claim has been adjusted according to the UAW Settlement Agreement and UAW Settlement Agreement Approval Order.

12. The Sufficiency Hearing Notice. Pursuant to the Claims Objection Procedures Order, the hearing on the Debtors' objection to the UAW Claims was adjourned to a

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<sup>4</sup> The UAW Allowed Claim in proof of claim number 16644 and is not subject to the Sufficiency Hearing.

future date. On March 25, 2010, the Reorganized Debtors filed the Sufficiency Hearing Notice with respect to the UAW Claims, among other proofs of claim and administrative expense claims, scheduling the Sufficiency Hearing.

D. Claimants' Burden Of Proof And Standard For Sufficiency Of Claim

13. The Reorganized Debtors respectfully submit that the UAW Claims fail to state a claim against the Debtors under rule 7012 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"). The UAW has not proved any facts to support a right to payment by the Reorganized Debtors on behalf of the Debtors. Accordingly, the Reorganized Debtors' objections to the UAW Claims should be sustained and such claims should be disallowed and expunged in their entirety.

14. The burden of proof to establish a claim against the Debtors rests on the claimants and, if a proof of claim does not include sufficient factual support, such proof of claim is not entitled to a presumption of prima facie validity pursuant to Bankruptcy Rule 3001(f). In re Spiegel, Inc., No. 03-11540, 2007 WL 2456626, at \*15 (Bankr. S.D.N.Y. August 22, 2007) (the claimant always bears the burden of persuasion and must initially allege facts sufficient to support the claim); see also In re WorldCom, Inc., No. 02-13533, 2005 WL 3832065, at \*4 (Bankr. S.D.N.Y. Dec. 29, 2005) (only a claim that alleges facts sufficient to support legal liability to claimant satisfies claimant's initial obligation to file substantiated proof of claim); In re Allegheny Int'l., Inc., 954 F.2d 167, 173 (3d Cir. 1992) (in its initial proof of claim filing, claimant must allege facts sufficient to support claim); In re Chiro Plus, Inc., 339 B.R. 111, 113 (Bankr. D.N.J. 2006) (claimant bears initial burden of sufficiently alleging claim and establishing facts to support legal liability); In re Armstrong Finishing, L.L.C., No. 99-11576-C11, 2001 WL 1700029, at \*2 (Bankr. M.D.N.C. May 2, 2001) (only when claimant alleges facts sufficient to support its proof of claim is it entitled to have claim considered prima facie valid); In re United



Cos. Fin. Corp., 267 B.R. 524, 527 (Bankr. D. Del. 2000) (claimant must allege facts sufficient to support legal basis for its claim to have claim make prima facie case).

15. For purposes of sufficiency, this Court has determined that the standard of whether a claimant has met its initial burden of proof to establish a claim should be similar to the standard employed by courts in deciding a motion to dismiss under Bankruptcy Rules 7012 and 9014. See Transcript of January 12, 2007 Hearing (Docket No. 7118) (the "January 12, 2007 Transcript") at 52:24-53:1. Pursuant to that standard, a motion to dismiss should be granted "if it plainly appears that the nonmovant 'can prove no set of facts in support of his claim which would entitle him to relief.'" In re Lopes, 339 B.R. 82, 86 (Bankr. S.D.N.Y. 2006) (quoting Conley v. Gibson, 355 U.S. 41, 45-46 (1957)). Essentially, the claimant must provide facts that sufficiently support a legal liability against the Debtors.

16. This Court further established that the sufficiency hearing standard is consistent with Bankruptcy Rule 3001(f), which states that "a proof of claim executed and filed in accordance with these Rules shall constitute prima facie evidence of the validity and amount of the claim." Fed. R. Bankr. P. 3001(f) (emphasis added). Likewise, Bankruptcy Rule 3001(a) requires that "the proof of claim must be consistent with the official form" and Bankruptcy Rule 3001(c) requires "evidence of a writing if the claim is based on a writing." Fed. R. Bankr. P. 3001(a), (c). See January 12, 2007 Transcript at 52:17-22.

E. Argument Regarding The UAW Claims

17. As set forth above and in the Forty-Fourth Omnibus Claims Objection, the UAW Claims should be disallowed and expunged because they were waived and released pursuant to the UAW Settlement Agreement and UAW Settlement Agreement Approval Order, which provided that the UAW Allowed Claim is the sole surviving claim.

18. In relevant part, the UAW Settlement Agreement Approval Order provides:

On the effective date of the Delphi Reorganization Plan, the UAW, all employees and former employees of Delphi represented or formerly represented by the UAW, and all persons or entities with claims derived from or related to any relationship with such employees or former employees of Delphi, shall waive and release and be deemed to have waived and released any and all claims of any nature, whether liquidated or unliquidated, contingent or non-contingent, asserted or unasserted, existing and/or arising in the future against Delphi, its subsidiaries, or affiliates . . . and the officers, directors, employees, fiduciaries, and agents of each, arising directly or indirectly from or in any way related to any obligations under the UAW [collective bargaining agreements]. . . .

19. In full satisfaction of all claims released by the UAW under the UAW Settlement Agreement Approval Order, including the UAW Claims, the UAW was granted an allowed prepetition general unsecured claim in the amount of \$140 million, subject to adjustment pursuant to the terms of the UAW Settlement Agreement Approval Order. This resulting claim, the UAW Allowed Claim, is proof of claim number 16644. The Reorganized Debtors and the UAW are in the process of resolving this claim.

20. The UAW Allowed Claim is therefore the UAW's sole surviving claim. All other UAW claims, including the UAW Claims, are waived and released pursuant to the terms of the UAW Settlement Agreement Approval Order as of the effective date of the Modified Plan, which occurred on October 6, 2009.

21. In the UAW Response, the UAW does not dispute – and indeed even admits – that the UAW Claims are waived and released and should be withdrawn.

22. Accordingly, the Reorganized Debtors assert that (a) the UAW has not met its burden of proof to establish a claim against the Debtors, (b) the UAW Claims are not entitled to a presumption of prima facie validity pursuant to Bankruptcy Rule 3001(f), and (c) the UAW Claims fail to state a claim against the Reorganized Debtors under Bankruptcy Rule 7012.

Because the UAW cannot provide facts or law supporting their claims, the Forty-Fourth Omnibus Claims Objection should be sustained as to the UAW Claims and each such claim should be disallowed and expunged in its entirety.

WHEREFORE the Reorganized Debtors respectfully request this Court enter an order (a) sustaining the objection with respect to the UAW Claims, (b) disallowing and expunging each UAW Claim in its entirety, and (c) granting such further and other relief this Court deems just and proper.

Dated: New York, New York  
April 13, 2010

SKADDEN, ARPS, SLATE, MEAGHER  
& FLOM LLP

By: /s/ John Wm. Butler, Jr.  
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- and -

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Reorganized Debtors

# **EXHIBIT G**

**Hearing Date and Time: April 23, 2010 at 10:00 a.m. (prevailing Eastern time)**  
**Supplemental Response Date and Time: April 21, 2010 at 4:00 p.m. (prevailing Eastern time)**

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UNITED STATES BANKRUPTCY COURT  
 SOUTHERN DISTRICT OF NEW YORK

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In re	:	Chapter 11
	:	
DPH HOLDINGS CORP., <u>et al.</u> ,	:	Case Number 05-44481 (RDD)
	:	
	:	(Jointly Administered)
Reorganized Debtors.	:	
	:	
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**REORGANIZED DEBTORS' SUPPLEMENTAL REPLY TO RESPONSE OF  
 CLAIMANT TO DEBTORS' OBJECTION TO ADMINISTRATIVE EXPENSE  
CLAIM NUMBERS 17094 AND 17773 FILED BY SHARYL Y. CARTER**

**("SUPPLEMENTAL REPLY REGARDING CERTAIN  
 CLAIMS OF SHARYL Y. CARTER")**

DPH Holdings Corp. and certain of its affiliated reorganized debtors in the above-captioned cases (together with DPH Holdings Corp., the "Reorganized Debtors") hereby submit the Reorganized Debtors' Supplemental Reply To Responses Of Claimant To Debtors' Objection To Administrative Expense Claim Numbers 17094 And 17773 Filed By Sharyl Y. Carter (the "Supplemental Reply"), and respectfully represent as follows:

A. Preliminary Statement

1. On October 8 and 14, 2005, Delphi Corporation and certain of its affiliates (the "Debtors"), predecessors of the Reorganized Debtors, filed voluntary petitions in this Court for reorganization relief under chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101-1330, as then amended (the "Bankruptcy Code").

2. On October 6, 2009, the Debtors substantially consummated the First Amended Joint Plan Of Reorganization Of Delphi Corporation And Certain Affiliates, Debtors And Debtors-In-Possession, As Modified (the "Modified Plan"), which had been approved by this Court pursuant to an order entered on July 30, 2009 (Docket No. 18707), and emerged from chapter 11 as the Reorganized Debtors.

3. On March 25, 2010, the Reorganized Debtors filed the Notice Of Sufficiency Hearing With Respect To Debtors' Objections To Proofs Of Claim Numbers 5268, 13270, 13838, 13880, 15585, 15589, 16925, 17081, 17773, 18049, 18087, 18604, 18740, 20017, And 20054 (Docket No. 19735) (the "Sufficiency Hearing Notice").

4. The Reorganized Debtors filed the Sufficiency Hearing Notice and are filing this Supplemental Reply to implement Article 9.6(a) of the Modified Plan, which provides that "[t]he Reorganized Debtors shall retain responsibility for administering, disputing, objecting to, compromising, or otherwise resolving all Claims against, and Interests in, the Debtors and

making distributions (if any) with respect to all Claims and Interests ...." Modified Plan, art. 9.6(a).

5. By the Sufficiency Hearing Notice and pursuant to the Order Pursuant To 11 U.S.C. § 502(b) And Fed. R. Bankr. P. 2002(m), 3007, 7016, 7026, 9006, 9007, And 9014 Establishing (i) Dates For Hearings Regarding Objections To Claims And (ii) Certain Notices And Procedures Governing Objections To Claims, entered December 7, 2006 (Docket No. 6089) (the "Claims Objection Procedures Order"), the Order Pursuant To 11 U.S.C. §§ 105(A) And 503(B) Authorizing Debtors To Apply Claims Objection Procedures To Address Contested Administrative Expense Claims, entered October 22, 2009 (Docket No. 18998), and the Eleventh Supplemental Order Pursuant To 11 U.S.C. § 502(b) And Fed. R. Bankr. P. 2002(m), 3007, 7016, 7026, 9006, 9007, And 9014 Establishing (i) Dates For Hearings Regarding Objections To Claims And (ii) Certain Notices And Procedures Governing Objections To Claims, entered April 5, 2010 (Docket No. 19776), the Reorganized Debtors scheduled a hearing (the "Sufficiency Hearing") on April 23, 2010<sup>1</sup> at 10:00 a.m. (prevailing Eastern time) in this Court to address the legal sufficiency of each proof of claim or administrative expense claim filed by the claimants listed on Exhibit A to the Sufficiency Hearing Notice and whether each such proof of claim states a colorable claim against the asserted Debtor.

6. This Supplemental Reply is filed pursuant to paragraph 9(b)(i) of the Claims Objection Procedures Order. Pursuant to paragraph 9(b)(ii) of the Claims Objection Procedures Order, if a Claimant wishes to file a supplemental pleading in response to this

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<sup>1</sup> Pursuant to the Sufficiency Hearing Notice, filed March 25, 2010, the Sufficiency Hearing was scheduled for April 22, 2010. Pursuant to direction of this Court, the Sufficiency Hearing was rescheduled for April 23, 2010 at 10:00 a.m. (prevailing Eastern time).

Supplemental Reply, the Claimant shall file and serve its response no later than two business days before the scheduled Sufficiency Hearing – i.e., by **April 21, 2010.**

B. Relief Requested

7. By this Supplemental Reply, the Reorganized Debtors request entry of an order disallowing and expunging certain administrative expense claims as non-administrative claims that reassert the same liabilities as previously expunged proofs of claim filed against the Debtors in these cases.

C. Administrative Expense Claims Filed Against The Debtors

8. During their review of the proofs of claim filed in these cases, the Reorganized Debtors determined that certain administrative expense claims were not reflected on the Reorganized Debtors' books and records. Accordingly, this Court should enter an order disallowing and expunging the administrative expense claims in their entirety. Moreover, the administrative claims assert the same prepetition claims that were previously disallowed by this Court.

9. On July 1, 2009, Sharyl Y. Carter (the "Claimant") filed administrative expense claim number 17094 asserting a \$50 million plus interest administrative expense claim against Delphi Corporation ("Delphi").<sup>2</sup>

10. On July 7, 2009, Sharyl Y. Carter filed administrative expense claim number 17773 asserting the same \$50 million plus interest administrative expense claim against Delphi (together administrative expense claim number 17094, the "Claims").

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<sup>2</sup> Although administrative expense claim number 17094 was not included on the Sufficiency Hearing Notice, it asserts the same claim as administrative expense claim number 17773 and of the two prepetition claims previously disallowed. Accordingly, the Reorganized Debtors request that administrative expense claim number 17094 be disallowed as well.



11. The Reorganized Debtors' Objection To The Claims. On February 12, 2010, the Reorganized Debtors objected to the Claims on the Reorganized Debtors' Forty-Fifth Omnibus Objection Pursuant To 11 U.S.C. § 503(b) And Fed. R. Bankr. P. 3007 To (I) Expunge Certain Administrative Expense (A) Severance Claims, (B) Books And Records Claims, (C) Duplicate Claims, (D) Pension And Benefit Claims, And (E) Transferred Workers' Compensation Claims, (II) Modify And Allow Certain Administrative Expense Severance Claims, And (III) Allow Certain Administrative Expense Severance Claims (Docket No. 19423) (the "Forty-Fifth Omnibus Claims Objection"), by which the Reorganized Debtors objected to that the Claims on the grounds that such claims are not reflected on the Reorganized Debtors' books and records.

12. Response To The Debtors' Objection. On March 4, 2010, Ms. Carter filed a response to the Forty-Fifth Omnibus Claims Objection (Docket No. 19599), in which she objects to "All the Debtors and their affiliates, Debtors Plans, and their objection to all my claims."

13. The Sufficiency Hearing Notice. Pursuant to the Claims Objection Procedures Order, the hearing on the Debtors' objection to the Claims were adjourned to a future date. On March 25, 2010, the Reorganized Debtors filed the Sufficiency Hearing Notice with respect to administrative expense claim number 17773, among other proofs of claim and administrative expense claims, scheduling the Sufficiency Hearing.<sup>3</sup>

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<sup>3</sup> As previously discussed, although administrative expense claim number 17094 was not listed on the Sufficiency Hearing Notice, for the sake of judicial efficiency, the Reorganized Debtors also seek to disallow and expunge administrative expense claim number 17094, which asserts the exact claim asserted in administrative expense claim number 17773.

D. Claimants' Burden Of Proof And Standard For Sufficiency Of Claim

14. The Reorganized Debtors respectfully submit that the Claims fail to state a claim against the Debtors under rule 7012 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"). This Court has previously ruled on the merits underlying each Claim, when disallowing proofs of claim numbers 16849 and 16850 filed by Ms. Carter (the "Expunged Claims"). The Claimant has not proved any facts to support a right to payment by the Reorganized Debtors on behalf of the Debtors. Accordingly, the Reorganized Debtors' objection to administrative expense claim number 17094 and administrative expense claim number 17773 should be sustained and each such claim should be disallowed and expunged in its entirety.

15. The burden of proof to establish a claim against the Debtors rests on the claimants and, if a proof of claim does not include sufficient factual support, such proof of claim is not entitled to a presumption of prima facie validity pursuant to Bankruptcy Rule 3001(f). In re Spiegel, Inc., No. 03-11540, 2007 WL 2456626, at \*15 (Bankr. S.D.N.Y. August 22, 2007) (the claimant always bears the burden of persuasion and must initially allege facts sufficient to support the claim); see also In re WorldCom, Inc., No. 02-13533, 2005 WL 3832065, at \*4 (Bankr. S.D.N.Y. Dec. 29, 2005) (only a claim that alleges facts sufficient to support legal liability to claimant satisfies claimant's initial obligation to file substantiated proof of claim); In re Allegheny Int'l., Inc., 954 F.2d 167, 173 (3d Cir. 1992) (in its initial proof of claim filing, claimant must allege facts sufficient to support claim); In re Chiro Plus, Inc., 339 B.R. 111, 113 (Bankr. D.N.J. 2006) (claimant bears initial burden of sufficiently alleging claim and establishing facts to support legal liability); In re Armstrong Finishing, L.L.C., No. 99-11576-C11, 2001 WL 1700029, at \*2 (Bankr. M.D.N.C. May 2, 2001) (only when claimant alleges facts sufficient to support its proof of claim is it entitled to have claim considered prima facie valid); In re United

Cos. Fin. Corp., 267 B.R. 524, 527 (Bankr. D. Del. 2000) (claimant must allege facts sufficient to support legal basis for its claim to have claim make prima facie case).

16. For purposes of sufficiency, this Court has determined that the standard of whether a claimant has met its initial burden of proof to establish a claim should be similar to the standard employed by courts in deciding a motion to dismiss under Bankruptcy Rules 7012 and 9014. See Transcript of January 12, 2007 Hearing (Docket No. 7118) (the "January 12, 2007 Transcript") at 52:24-53:1. Pursuant to that standard, a motion to dismiss should be granted "if it plainly appears that the nonmovant 'can prove no set of facts in support of his claim which would entitle him to relief.'" In re Lopes, 339 B.R. 82, 86 (Bankr. S.D.N.Y. 2006) (quoting Conley v. Gibson, 355 U.S. 41, 45-46 (1957)). Essentially, the claimant must provide facts that sufficiently support a legal liability against the Debtors.

17. This Court further established that the sufficiency hearing standard is consistent with Bankruptcy Rule 3001(f), which states that "a proof of claim executed and filed in accordance with these Rules shall constitute prima facie evidence of the validity and amount of the claim." Fed. R. Bankr. P. 3001(f) (emphasis added). Likewise, Bankruptcy Rule 3001(a) requires that "the proof of claim must be consistent with the official form" and Bankruptcy Rule 3001(c) requires "evidence of a writing if the claim is based on a writing." Fed. R. Bankr. P. 3001(a), (c). See January 12, 2007 Transcript at 52:17-22.

18. Disallowance Of The Expunged Claims On The Merits. On June 22, 2009, the Debtors filed the Debtors' Thirty-Fourth Omnibus Objection Pursuant To 11 U.S.C. § 502(b) And Fed. R. Bankr. P. 3007 To (I) Expunge (A) Certain Pension And OPEB Claims, (B) Certain Individual Workers' Compensation Claims, (C) Certain Duplicate And/Or Amended Individual Workers' Compensation Claims, (D) Certain Untimely Individual Workers' Compensation

Claims, (E) A Secured Books And Records Claim, And (F) Certain Untimely Claims, (II) Modify Certain (A) Wage And Benefit Claims, (B) State Workers' Compensation Claims, And (C) Individual Workers' Compensation Claims Asserting Priority, (III) Provisionally Disallow Certain Union Claims, And (IV) Modify And Allow Certain Settled Claims (Docket No. 17182) (the "Thirty-Fourth Omnibus Claims Objection"), by which the Debtors objected to proofs of claim numbers 16849 and 16850 (the "Expunged Claims") on the grounds that such claims asserted dollar amounts and liabilities not reflected on the Debtors' books and records and sought an order disallowing and expunging the Expunged Claims. Administrative expense claim number 17094 and 17773 assert the same liabilities as the Expunged Claims.

19. On July 20 2009,<sup>4</sup> Ms. Carter filed a letter response to the Thirty-Fourth Omnibus Claims Objection (Docket No. 18457). In her response, Ms. Carter asserted that she has been told that she does "not have any claims, due to untimely filing for years." Nothing in Ms. Carter's response provided any rational explanation, documentation, evidence, or support for any of the claims asserted in the Expunged Claims. Pursuant to the Claims Objection Procedures Order, the hearing on the Debtors' objection to the Expunged Claims was adjourned to December 18, 2009.

20. On December 31, 2009, this Court entered the Order Pursuant To 11 U.S.C. § 502(b) and Fed. R. Bankr. P. 3007 Disallowing And Expunging Proof Of Claim Number 16849 Filed By Sharyl Yvette Carter Identified In The Thirty-Fourth Omnibus Claims Objection (Docket No. 19272), by which proof of claim number 16849 was expunged.

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<sup>4</sup> The deadline to file a response to the Thirty-Fourth Omnibus Claims Objection was July 16, 2009 at 4:00 p.m. (prevailing Eastern time). See Thirty-Fourth Omnibus Claims Objection, ¶ 60.

21. On January 25, 2010, this Court, after requesting additional briefing by the Reorganized Debtors,<sup>5</sup> entered the Order Pursuant To 11 U.S.C. § 502(b) And Fed. R. Bankr. P. 3007 Disallowing And Expunging Proof of Claim Number 16850 Filed by Sharyl Yvette Carter Identified In The Thirty-Fourth Omnibus Claims Objection ("Claim Objection Order Expunging Sharyl Carter's Proof of Claim No. 16850") (Docket No. 19359), by which proof of claim number 16850 was expunged. In its ruling, this Court sifted through all of Ms. Carter's submissions<sup>6</sup> and the rulings of the United States District Court for the Southern District of Ohio (the "District Court").<sup>7</sup> This Court determined that Ms. Carter did not state a legally sufficient claim against the Debtors. In the Claims, Ms. Carter raises the very same issues that have already been adjudicated by this Court in the Court's January 25, 2010 ruling.

22. Accordingly, the Reorganized Debtors respectfully submit that (a) Sharyl Y. Carter has not met her burden of proof to establish a claim against the Debtors, (b) administrative expense claim numbers 17094 and 17773 are not entitled to a presumption of prima facie validity pursuant to Bankruptcy Rule 3001(f), and (c) administrative expense claim numbers 17094 and 17773 fail to state a claim against the Reorganized Debtors under

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<sup>5</sup> See the Reorganized Debtors' Second Supplemental Reply To Response Of Sharyl Y. Carter To Debtors' Objection To Proof Of Claim Number 16850 Filed By Sharyl Y. Carter (Docket No. 19303).

<sup>6</sup> See Docket Nos. 17951, 17323, 14678, 14339, 14608, 13666, 13491, 9352, 9351, and 18457.

<sup>7</sup> On August 15, 2002, Ms. Carter filed a charge of discrimination with the United States Equal Employment Opportunity Commission (the "EEOC"), claiming that Delphi discriminated against her on the basis of her race and that it retaliated against her in violation of Title VII of the Civil Rights Act. Ms. Carter later asked to withdraw her charge, and on March 11, 2003, the EEOC issued to her a Notice of Right to Sue. On June 6, 2003, Ms. Carter filed a complaint against DAS LLC with the District Court, alleging that DAS LLC discriminated against her on the basis of her race, sex, disability, and age, and also seeking damages under an intentional tort theory for her alleged workplace injury. Sharyl Y. Carter v. Delphi Automotive Systems LLC, et al., Case No. C3-CV-205 (S.D. Ohio) (the "District Court Action"). After full discovery, DAS LLC moved for summary judgment and on March 28, 2005, the District Court issued an opinion and judgment granting DAS LLC's summary judgment motion in its entirety (District Court Action, Docket No. 56). On April 24, 2005, Ms. Carter filed a notice of appeal with the United States Court of Appeals for the Sixth Circuit (District Court Action, Docket No. 58).

Bankruptcy Rule 7012. Because Claimant cannot provide facts or law supporting their claims, the Forty-Fifth Omnibus Claims Objection should be sustained as to administrative expense claim numbers 17094 and 17773 and each such claim should be disallowed and expunged in its entirety.

WHEREFORE the Reorganized Debtors respectfully request this Court enter an order (a) sustaining the objection with respect to administrative expense claim numbers 17094 and 17773, (b) disallowing and expunging administrative claim numbers 17094 and 17773 in their entirety, and (c) granting such further and other relief this Court deems just and proper.

Dated: New York, New York  
April 13, 2010

SKADDEN, ARPS, SLATE, MEAGHER  
& FLOM LLP

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Reorganized Debtors

# **EXHIBIT H**

**Hearing Date and Time: April 23, 2010 at 10:00 a.m. (prevailing Eastern time)**  
**Supplemental Response Date and Time: April 21, 2010 at 4:00 p.m. (prevailing Eastern time)**

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UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

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In re	:	Chapter 11
	:	
DPH HOLDINGS CORP., <u>et al.</u> ,	:	Case Number 05-44481 (RDD)
	:	
	:	(Jointly Administered)
Reorganized Debtors.	:	
	:	
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REORGANIZED DEBTORS' SUPPLEMENTAL REPLY TO RESPONSE OF A  
CERTAIN CLAIMANT TO DEBTORS' OBJECTION TO PROOF OF CLAIM  
NUMBER 11892 FILED BY RONALD E. JORGENSEN

("SUPPLEMENTAL REPLY REGARDING A CERTAIN EQUITY CLAIM")



DPH Holdings Corp. and certain of its affiliated reorganized debtors in the above-captioned cases (together with DPH Holdings Corp., the "Reorganized Debtors") hereby submit the Reorganized Debtors' Supplemental Reply To Response Of A Certain Claimant To Debtors' Objections To Proof Of Claim Number 11892 Filed By Ronald E. Jorgensen (the "Supplemental Reply"), and respectfully represent as follows:

A. Preliminary Statement

1. On October 8 and 14, 2005, Delphi Corporation and certain of its affiliates (the "Debtors"), predecessors of the Reorganized Debtors, filed voluntary petitions in this Court for reorganization relief under chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101-1330, as then amended (the "Bankruptcy Code").

2. On October 6, 2009, the Debtors substantially consummated the First Amended Joint Plan Of Reorganization Of Delphi Corporation And Certain Affiliates, Debtors And Debtors-In-Possession, As Modified (the "Modified Plan"), which had been approved by this Court pursuant to an order entered on July 30, 2009 (Docket No. 18707) (the "Modification Approval Order"), and emerged from chapter 11 as the Reorganized Debtors.

3. On March 25, 2010, the Reorganized Debtors filed the Notice Of Sufficiency Hearing With Respect To Debtors' Objections To Proofs Of Claim Nos. 11892, 12147, 14019, 14020, 14022, 14023, 14024, 14025, 14026, 14370, And 19543 (Docket No. 19725) (the "Sufficiency Hearing Notice").

4. The Reorganized Debtors filed the Sufficiency Hearing Notice and are filing this Supplemental Reply to implement Article 9.6(a) of the Modified Plan, which provides that "[t]he Reorganized Debtors shall retain responsibility for administering, disputing, objecting to, compromising, or otherwise resolving all Claims against, and Interests in, the Debtors and making distributions (if any) with respect to all Claims and Interests." Modified Plan, art. 9.6(a).

5. By the Sufficiency Hearing Notice and pursuant to the Order Pursuant To 11 U.S.C. § 502(b) And Fed. R. Bankr. P. 2002(m), 3007, 7016, 7026, 9006, 9007, And 9014 Establishing (i) Dates For Hearings Regarding Objections To Claims And (ii) Certain Notices And Procedures Governing Objections To Claims, entered December 7, 2006 (Docket No. 6089) (the "Claims Objection Procedures Order") and the Eleventh Supplemental Order Pursuant To 11 U.S.C. § 502(b) And Fed. R. Bankr. P. 2002(m), 3007, 7016, 7026, 9006, 9007, And 9014 Establishing (i) Dates For Hearings Regarding Objections To Claims And (ii) Certain Notices And Procedures Governing Objections To Claims, entered April 5, 2010 (Docket No. 19776), the Reorganized Debtors scheduled a hearing (the "Sufficiency Hearing") on April 23, 2010<sup>1</sup> at 10:00 a.m. (prevailing Eastern time) in this Court to address the legal sufficiency of each proof of claim filed by the claimants listed on Exhibit A to the Sufficiency Hearing Notice and whether each such proof of claim states a colorable claim against the asserted Debtor.

6. This Supplemental Reply is filed pursuant to paragraph 9(b)(i) of the Claims Objection Procedures Order. Pursuant to paragraph 9(b)(ii) of the Claims Objection Procedures Order, if a Claimant wishes to file a supplemental pleading in response to this Supplemental Reply, the Claimant shall file and serve its response no later than two business days before the scheduled Sufficiency Hearing – i.e., by **April 21, 2010.**

B. Relief Requested

7. By this Supplemental Reply, the Reorganized Debtors request entry of an order determining that a certain proof of claim is not entitled to a distribution under the Modified Plan because it is premised upon a claim based upon the purchase or sale of stock in any of the

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<sup>1</sup> Pursuant to the Sufficiency Hearing Notice, filed March 25, 2010, the Sufficiency Hearing was scheduled for April 22, 2010. Pursuant to direction of this Court, the Sufficiency Hearing was rescheduled for April 23, 2010 at 10:00 a.m. (prevailing Eastern time).

Debtors and is subordinated under section 510(b) of the Bankruptcy Code and is relegated to treatment of such claims under the Modified Plan pursuant to section 1141(d) of the Bankruptcy Code.

C. Equity Claim Filed Against The Debtors

8. During their review of the proofs of claim filed in these cases, the Reorganized Debtors determined that a certain proof of claim asserts liabilities or dollar amounts in connection with the claimant's alleged ownership of equity in the Debtors and the purported loss of value of that equity. Because the amounts asserted by the claimant is, at best, a claim that is subordinated under section 510(b) of the Bankruptcy Code and thus not entitled to a distribution under the Modified Plan. Accordingly, this Court should enter an order determining that the claim is not entitled to a distribution under the Modified Plan because it is premised upon a claim based upon the purchase or sale of stock in any of the Debtors and is subordinated under section 510(b) of the Bankruptcy Code and is relegated to treatment of such claims under the Modified Plan pursuant to section 1141(d) of the Bankruptcy Code.

9. On July 28, 2006, Ronald E. Jorgensen (the "Claimant") filed proof of claim number 11892 (the "Equity Claim") against Delphi Corporation ("Delphi"), asserting \$82,299.00 based on the alleged loss in value of stock in Delphi owned by Mr. Jorgensen.

10. The Debtors' Objections To The Equity Claim. On November 2, 2006, the Debtors objected to Mr. Jorgensen's proof of claim number 11892 on the Debtors' (I) Third Omnibus Objection (Substantive) Pursuant To 11 U.S.C. § 502(b) And Fed. R. Bankr. P. 3007 To Certain (A) Claims With Insufficient Documentation, (B) Claims Unsubstantiated By Debtors' Books And Records, And (C) Claims Subject To Modification, And (II) Motion To Estimate Contingent And Unliquidated Claims Pursuant To 11 U.S.C. § 502(c) (Docket No.

5452) (the "Third Omnibus Claims Objection") as an unsubstantiated claim and sought entry of an order disallowing and expunging such claim.

11. Response To The Debtors' Objections. On November 17, 2006, Mr. Jorgensen filed a response to the Third Omnibus Claims Objection (Docket No. 5672), in which he asserted, among other things, that the Debtors "totally misled investors."

12. The Sufficiency Hearing Notice. Pursuant to the Claims Objection Procedures Order, the hearing on the Debtors' objection to the Equity Claim was adjourned to a future date. On March 25, 2010, the Reorganized Debtors filed the Sufficiency Hearing Notice with respect to the Equity Claim, among other proofs of claim and administrative expense claims, scheduling the Sufficiency Hearing.

D. Claimant's Burden Of Proof And Standard For Sufficiency Of Claim

13. The Reorganized Debtors respectfully submit that the Equity Claim fails to state a claim against the Debtors under rule 7012 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"). The Claimant has not proved any facts to support a right to payment by the Reorganized Debtors on behalf of the Debtors. Accordingly, the Debtors' objection to the Equity Claim should be sustained and the Claimant should be not be entitled to a distribution on account of the Equity Claim.

14. The burden of proof to establish a claim against the Debtors rests on the claimants and, if a proof of claim does not include sufficient factual support, such proof of claim is not entitled to a presumption of prima facie validity pursuant to Bankruptcy Rule 3001(f). In re Spiegel, Inc., No. 03-11540, 2007 WL 2456626, at \*15 (Bankr. S.D.N.Y. August 22, 2007) (the claimant always bears the burden of persuasion and must initially allege facts sufficient to support the claim); see also In re WorldCom, Inc., No. 02-13533, 2005 WL 3832065, at \*4 (Bankr. S.D.N.Y. Dec. 29, 2005) (only a claim that alleges facts sufficient to support legal

liability to claimant satisfies claimant's initial obligation to file substantiated proof of claim); In re Allegheny Int'l., Inc., 954 F.2d 167, 173 (3d Cir. 1992) (in its initial proof of claim filing, claimant must allege facts sufficient to support claim); In re Chiro Plus, Inc., 339 B.R. 111, 113 (Bankr. D.N.J. 2006) (claimant bears initial burden of sufficiently alleging claim and establishing facts to support legal liability); In re Armstrong Finishing, L.L.C., No. 99-11576-C11, 2001 WL 1700029, at \*2 (Bankr. M.D.N.C. May 2, 2001) (only when claimant alleges facts sufficient to support its proof of claim is it entitled to have claim considered prima facie valid); In re United Cos. Fin. Corp., 267 B.R. 524, 527 (Bankr. D. Del. 2000) (claimant must allege facts sufficient to support legal basis for its claim to have claim make prima facie case).

15. For purposes of sufficiency, this Court has determined that the standard of whether a claimant has met its initial burden of proof to establish a claim should be similar to the standard employed by courts in deciding a motion to dismiss under Bankruptcy Rules 7012 and 9014. See Transcript of January 12, 2007 Hearing (Docket No. 7118) (the "January 12, 2007 Transcript") at 52:24-53:1. Pursuant to that standard, a motion to dismiss should be granted "if it plainly appears that the nonmovant 'can prove no set of facts in support of his claim which would entitle him to relief.'" In re Lopes, 339 B.R. 82, 86 (Bankr. S.D.N.Y. 2006) (quoting Conley v. Gibson, 355 U.S. 41, 45-46 (1957)). Essentially, the claimant must provide facts that sufficiently support a legal liability against the Debtors.

16. This Court further established that the sufficiency hearing standard is consistent with Bankruptcy Rule 3001(f), which states that "a proof of claim executed and filed in accordance with these Rules shall constitute prima facie evidence of the validity and amount of the claim." Fed. R. Bankr. P. 3001(f) (emphasis added). Likewise, Bankruptcy Rule 3001(a) requires that "the proof of claim must be consistent with the official form" and Bankruptcy Rule

3001(c) requires "evidence of a writing if the claim is based on a writing." Fed. R. Bankr. P.

3001(a), (c). See January 12, 2007 Transcript at 52:17-22.

E. Argument Regarding The Equity Claim

17. Prior to confirmation of the Modified Plan, this Court denied the Debtors' request to grant the relief sought in the Third Omnibus Claims Objection disallowing and expunging the Equity Claim in its entirety on a sufficiency basis. See Transcript of January 12, 2007 Transcript at 59:3-6. However, pursuant to the Modified Plan, even if the Equity Claim is valid, it is not entitled to a distribution under section 510(b) of the Bankruptcy Code because it is premised upon a claim based upon the purchase or sale of stock in any of the Debtors. The Claimant has not proved any set of facts that support a distribution under the Modified Plan, a right to payment from the Reorganized Debtors, or address the Debtors' request for this Court to enter an order finding that the Claim is not entitled to a distribution under section 510(b) of the Bankruptcy Code because the claim is a Class 1G-2 Section 510(b) Equity Claim pursuant to the Modified Plan.

18. On or prior to April 20, 2006, the Debtors caused Kurtzman Carson Consultants, the claims and noticing agent in these cases, to serve notice of the Bar Date (the "Bar Date Notice"), together with a proof of claim form, on, among others, holders of Delphi common stock to ensure that holders of stock who wished to assert claims against any of the Debtors that were not based solely upon their ownership of Delphi common stock would be afforded the opportunity to file such claims in these cases. The ownership of Delphi common stock constitutes an equity interest in Delphi, but does not constitute a "claim" against the Debtors as such term is defined in section 101(5) of the Bankruptcy Code. Furthermore, as set forth in the Bar Date Notice that was approved by this Court, creditors and equity holders were

notified that they were not required to file proofs of claim based exclusively on ownership interests in Delphi common stock.<sup>2</sup>

19. In addition, pursuant to section 1141(d) of the Bankruptcy Code, the distributions and rights that are provided in the Modified Plan are in complete satisfaction, discharge, and release of, among other things, interests in Delphi whether or not a proof of claim based upon such interest is filed. Finally, the Modification Approval Order is a judicial determination of the discharge of all interests in the Debtors.

F. Argument Regarding The Purported Loss Of Value

20. The Claimant's claim arising from the purported loss of value of his equity interests is also without merit. The Claimant must allege some legal theory to support his claim for the loss of value of stock that he owned. Those claims, however, are unsubstantiated and therefore should be disallowed.

21. The Claimant appears to attempt to assert claims based on alleged securities fraud or some other cognizable common law fraud. However, the Claimant failed to identify any particular claim or establish a sufficient legal or factual basis to support such a

---

<sup>2</sup> The Bar Date Order provides, in relevant part:

Proofs of Claim are not required, at this time, to be filed by any Person or Entity asserting a Claim of any of the types set forth below:

\* \* \*

(h) Any holder of equity securities of, or other interests in, the Debtors solely with respect to such holder's ownership interest in or possession of such equity securities, or other interest; provided, however, that any such holder which wishes to assert a Claim against any of the Debtors that is not based solely upon its ownership of the Debtors' securities, including, but not limited to, Claims for damages or rescission based on the purchase or sale of such securities, must file a proof of claim on or prior to the General Bar Date in respect of such Claim.

Bar Date Order ¶5.

claim.<sup>3</sup> The Claimant has not invoked Section 10(b) of the Exchange Act, Rule 10b-5, or any other legal basis for their purported claims. To establish such a claim, the Claimant would need to show, inter alia, that he was involved in the purchase or sale of a security and that the Debtors made an untrue statement of material fact. See 17 C.F.R. § 240.10b-5. The Claimant has not, however, alleged facts in his claim that, even when viewed in the light most favorable to the Claimant, would support a claim for securities fraud or any other cognizable common law fraud claim.

22. To the extent that the Equity Claim is premised upon a claim based upon the purchase or sale of stock in any of the Debtors, the claim is subordinated under section 510(b) of the Bankruptcy Code and is not entitled to a distribution. Because the Claimant cannot provide facts or law supporting his claim, the Third Omnibus Claims Objection should be sustained as to proofs of claim numbers 11892 and the claim should be subordinated under section 510(b) of the Bankruptcy Code and are relegated to treatment of such claims under the Modified Plan pursuant to section 1141(d) of the Bankruptcy Code to the extent based upon the purchase or sale of stock in any of the Debtors.

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<sup>3</sup> Section 10(b) of the Exchange Act makes it unlawful for a person "[t]o use or employ, in connection with the purchase or sale of any security . . . any manipulative or deceptive device or contrivance in contravention of such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of investors." 15 U.S.C. § 78j(b). Rule 10b-5 implements Section 10(b) by making it unlawful for any person, in connection with the purchase or sale of a security, "to make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements . . . not misleading." 17 C.F.R. § 240.10b-5. The Supreme Court has identified the basic elements of a securities fraud case:

- (1) a material misrepresentation or omission,
- (2) scienter, or a wrongful state of mind,
- (3) a connection with the purchase or sale of a security,
- (4) reliance,
- (5) economic loss, and
- (6) loss causation, i.e., a causal connection between the material misrepresentation and the loss.

Dura Pharm. v. Broudo, 544 U.S. 336, 341 (2005).



WHEREFORE the Reorganized Debtors respectfully request this Court enter an order determining that the Equity Claim is not entitled to a distribution under the Modified Plan because it is premised upon a claim based upon the purchase or sale of stock in any of the Debtors and is subordinated under section 510(b) of the Bankruptcy Code and is relegated to treatment of such claims under the Modified Plan pursuant to section 1141(d) of the Bankruptcy Code, and (c) granting such further and other relief this Court deems just and proper.

Dated: New York, New York  
April 13, 2010

SKADDEN, ARPS, SLATE, MEAGHER  
& FLOM LLP

By: /s/ John Wm. Butler, Jr.  
John Wm. Butler, Jr.  
John K. Lyons  
Ron E. Meisler  
155 North Wacker Drive  
Chicago, Illinois 60606

- and -

By: /s/ Kayalyn A. Marafioti  
Kayalyn A. Marafioti  
Four Times Square  
New York, New York 10036

Attorneys for DPH Holdings Corp., et al.,  
Reorganized Debtors

# **EXHIBIT I**

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International: (248) 813-2698

DPH Holdings Corp. Legal Information Website:  
<http://www.dphholdingsdocket.com>

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

-----	x	
	:	
In re	:	Chapter 11
	:	
DPH HOLDINGS CORP., <u>et al.</u> ,	:	Case No. 05-44481 (RDD)
	:	
	:	(Jointly Administered)
Reorganized Debtors.	:	
	:	
-----	x	

EX PARTE APPLICATION UNDER 11 U.S.C. § 107(b) AND FED. R. BANKR. P. 9018 FOR ORDER AUTHORIZING REORGANIZED DEBTORS TO FILE (I) A REDACTED VERSION OF REORGANIZED DEBTORS' SUPPLEMENTAL REPLY TO RESPONSES OF CERTAIN CLAIMANTS TO DEBTORS' OBJECTIONS TO PROOFS OF CLAIM NUMBERS 14019, 14020, 14022, 14023, 14024, 14025, AND 14026 FILED BY ATUL PASRICHA AND PROOF OF CLAIM NUMBER 12147 FILED BY PAMELA GELLER AND (II) UNREDACTED VERSIONS OF (A) THE SUPPLEMENTAL REPLY AND (B) A CERTAIN AGREEMENT BETWEEN DEBTORS AND ATUL PASRICHA UNDER SEAL

("DPH HOLDINGS – PASRICHA SEALING APPLICATION")

DPH Holdings Corp. ("DPH Holdings") and certain affiliated reorganized debtors (the "Reorganized Debtors") respectfully submit this Ex Parte Application Under 11 U.S.C. § 107(b) And Fed. R. Bankr. P. 9018 For Order Authorizing Reorganized Debtors To File (I) A Redacted Version Of Reorganized Debtors' Supplemental Reply To Responses Of Certain Claimants To Debtors' Objections To Proofs Of Claim Numbers 14019, 14020, 14022, 14023, 14024, 14025, And 14026 Filed By Atul Pasricha And Proof Of Claim Number 12147 Filed By Pamela Geller And (II) Unredacted Versions Of (A) The Supplemental Reply And (B) A Certain Agreement Between Debtors And Atul Pasricha Under Seal (the "Application"), and respectfully represent as follows:

Background

1. On October 8 and 14, 2005, Delphi Corporation ("Delphi") and certain of its affiliates (together with Delphi, the "Debtors"), predecessors of the Reorganized Debtors, filed voluntary petitions in this Court for reorganization relief under chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101-1330, as then amended (the "Bankruptcy Code").

2. On December 10, 2007, the Debtors filed their first amended joint plan of reorganization (Docket No. 11386) (the "Plan") and related disclosure statement (Docket No. 11388). On January 25, 2008, the Court entered an order (Docket No. 12359) (the "Confirmation Order") confirming the Plan (as modified) (the "Confirmed Plan"), and the Confirmation Order became final on February 4, 2008.

3. On October 3, 2008, the Debtors filed a motion under 11 U.S.C. § 1127 for an order approving (i) certain modifications to the Confirmed Plan and related disclosure statement and (ii) related procedures for re-soliciting votes on the Confirmed Plan, as modified (Docket No. 14310) (the "Plan Modification Motion"). On June 1, 2009, the Debtors filed a supplement

to the Plan Modification Motion (the "Motion Supplement"), which sought approval of (i) certain modifications to the Confirmed Plan (the "Modified Plan"), (ii) supplemental disclosure, and (iii) procedures for re-soliciting votes on the Modified Plan. After holding a final plan modification hearing, the Court entered an order approving the Modified Plan (Docket No. 18707) on July 30, 2009.

4. On October 6, 2009 (the "Effective Date"), the Debtors substantially consummated the Modified Plan and closed the transactions under the Master Disposition Agreement, dated as of July 30, 2009, by and among Delphi, GM Components Holdings, LLC, General Motors Company, Motors Liquidation Company (f/k/a General Motors Corporation), DIP Holdco 3 LLC (which assigned its rights to DIP Holdco LLP, subsequently renamed Delphi Automotive LLP, a United Kingdom limited liability partnership), and the other sellers and buyers party thereto. In connection therewith, DIP Holdco LLP, through various subsidiaries and affiliates, acquired substantially all of the Debtors' global core businesses, and GM Components Holdings, LLC and Steering Solutions Services Corporation acquired certain U.S. manufacturing plants and the Debtors' non-core steering business, respectively. The Reorganized Debtors have emerged from chapter 11 as DPH Holdings and affiliates and remain responsible for the post-Effective Date administration of these chapter 11 cases, including the disposition of certain retained assets, the payment of certain retained liabilities as provided for under the Modified Plan, and the eventual closing of the cases.

5. Between the Petition Date and the Effective Date, the Debtors remained as debtors-in-possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334. Venue is proper

pursuant to 28 U.S.C. §§ 1408 and 1409. This matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(2).

6. The statutory predicates for the relief requested herein are section 107(b) of the Bankruptcy Code and rule 9018 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules").

Relief Requested

7. By this Application, the Reorganized Debtors seek entry of an order under 11 U.S.C. § 107(b) and Bankruptcy Rule 9018 authorizing the Reorganized Debtors to file (I) a redacted version of the Reorganized Debtors' Supplemental Reply To Responses Of Certain Claimants To Debtors' Objections To Proofs Of Claim Numbers 14019, 14020, 14022, 14023, 14024, 14025, And 14026 Filed By Atul Pasricha And Proof Of Claim Number 12147 Filed By Pamela Geller and (II) unredacted versions of (A) the Supplemental Reply (defined below) and (B) a certain agreement between the Debtors and Atul Pasricha (the "Agreement") under seal.

Basis For Relief

8. On March 25, 2010, the Reorganized Debtors filed the Notice Of Sufficiency Hearing With Respect To Debtors' Objections To Proofs Of Claim Nos. 11892, 12147, 14019, 14020, 14022, 14023, 14024, 14025, 14026, 14370, And 19543 (Docket No. 19725) (the "Sufficiency Hearing Notice"). By the Sufficiency Hearing Notice and pursuant to the Order Pursuant To 11 U.S.C. § 502(b) And Fed. R. Bankr. P. 2002(m), 3007, 7016, 7026, 9006, 9007, And 9014 Establishing (i) Dates For Hearings Regarding Objections To Claims And (ii) Certain Notices And Procedures Governing Objections To Claims, entered December 7, 2006 (Docket No. 6089) (the "Claims Objection Procedures Order") and the Eleventh Supplemental Order Pursuant To 11 U.S.C. § 502(b) And Fed. R. Bankr. P. 2002(m), 3007, 7016, 7026, 9006, 9007, And 9014 Establishing (i) Dates For Hearings Regarding Objections To Claims And (ii)

Certain Notices And Procedures Governing Objections To Claims, entered April 5, 2010 (Docket No. 19776), the Reorganized Debtors scheduled a hearing (the "Sufficiency Hearing") on April 23, 2010<sup>1</sup> at 10:00 a.m. (prevailing Eastern time) in this Court to address the legal sufficiency of proofs of claim 14019, 14020, 14022, 14023, 14024, 14025, 14026 (the "Pasricha Claims"), among others, filed by Atul Pasricha and whether each of the Pasricha Claims states a colorable claim against the asserted Debtor.

9. Pursuant to the Claims Objection Procedures Order, the Debtors are prepared to file the Reorganized Debtors' Supplemental Reply To Responses Of Certain Claimants To Debtors' Objections To Proofs Of Claim Numbers 14019, 14020, 14022, 14023, 14024, 14025, And 14026 Filed By Atul Pasricha And Proof Of Claim Number 12147 Filed By Pamela Geller (the "Supplemental Reply") to request that this Court enter an order disallowing and expunging the Pasricha Claims. The Supplemental Reply references the Agreement and attaches the Agreement as an exhibit. The Agreement contains explicit confidentiality provisions which require the Reorganized Debtors and Mr. Pasricha to maintain the confidentiality of the terms of the Agreement. Accordingly, the Reorganized Debtors request permission to (i) file a redacted version of the Supplemental Reply and (ii) file under seal an unredacted version of the Supplemental Reply and the Agreement.

10. The reorganized Debtors request that the unredacted Supplemental Reply and the Agreement (and any information derived therefrom) remain confidential, be filed under seal, and shall be served on and made available only to (a) Atul Pasricha and his counsel and (b) such other parties as may be ordered by this Court after imposition of appropriate confidentiality

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<sup>1</sup> Pursuant to the Sufficiency Hearing Notice, filed March 25, 2010, the Sufficiency Hearing was scheduled for April 22, 2010. The Sufficiency Hearing was rescheduled for April 23, 2010 at 10:00 a.m. (prevailing Eastern time) by direction of the Court.

restrictions or as may be agreed to in writing by the Reorganized Debtors and Mr. Pasricha.

Applicable Authority

11. Section 107(b) of the Bankruptcy Code provides bankruptcy courts with the power to issue orders that will protect entities from potential harm that may result from the disclosure of certain confidential information. That section provides, in relevant part:

On request of a party in interest, the bankruptcy court shall . . . –

- (1) protect an entity with respect to a trade secret or confidential research, development, or commercial information . . . .

11 U.S.C. § 107(b).

12. Bankruptcy Rule 9018 defines the procedures by which a party may seek relief under section 107(b) of the Bankruptcy Code and provides that "[o]n motion, or on its own initiative, with or without notice, the court may make any order which justice requires . . . to protect the estate or any entity in respect of a trade secret or other confidential research, development, or commercial information . . . ." Fed. R. Bankr. P. 9018.

13. Bankruptcy Code section 107(b) and Bankruptcy Rule 9018 do "not require that commercial information be the equivalent of a trade secret before protecting such information." Video Software Dealers Assoc. v. Orion Pictures Corp. (In re Orion Pictures Corp.), 21 F.3d 24, 28 (2d Cir. 1994). A party seeking the sealing of information is required to show only that the information is confidential and commercial, and need not show "good cause." Id. at 28. The Bankruptcy Court "is required to grant that relief upon the motion of a party in interest, assuming the information is of the type listed in section 107(b)." In re Global Crossing Ltd., 295 B.R. 720, 723 n.7 (Bankr. S.D.N.Y. 2003) (citing In re Orion Pictures Corp., 21 F.3d at 27)).



14. Here, there is good cause for the relief requested. The Agreement to be submitted under seal contains confidential information. Such information qualifies as "confidential . . . commercial information" worthy of protection under section 107(b) of the Bankruptcy Code and Bankruptcy Rule 9018. Accordingly, this Court is authorized to permit the Reorganized Debtors to submit the Agreement with the Court pursuant to General Order M-242 and require the United States Bankruptcy Clerk for the Southern District of New York to file the Agreement under seal.

15. No prior application for the relief requested herein has been made to this or any other Court.

Notice Of Application

16. Pursuant to Bankruptcy Rule 9018, no notice of this Application is required, and in light of the nature of the relief requested in this Application no other or further notice is necessary. Nevertheless, the Reorganized Debtors will serve a copy of this Application in accordance with the Supplemental Order Under 11 U.S.C. §§ 102(1) And 105 And Fed. R. Bankr. P. 2002(m), 9006, 9007, And 9014 Establishing Omnibus Hearing Dates And Certain Notice, Case Management, And Administrative Procedures, entered March 20, 2006 (Docket No. 2883) (the "Supplemental Case Management Order") and the Eighteenth Supplemental Order Under 11 U.S.C. §§ 102(1) And 105 And Fed. R. Bankr. P. 2002(m), 9006, 9007, And 9014 Establishing Omnibus Hearing Dates And Certain Notice, Case Management, And Administrative Procedures, entered April 5, 2010 (Docket No. 19774). The Reorganized Debtors request that the Court grant the relief requested herein without the need for a hearing under 11 U.S.C. § 102(1) so that the Reorganized Debtors may promptly submit under seal the Agreement and the unredacted Supplemental Reply to the court.

WHEREFORE the Reorganized Debtors respectfully request that the Court enter an order (a) authorizing the Reorganized Debtors to file (i) a redacted version of the Supplemental Reply and (ii) an unredacted version of the Supplemental Reply and the Agreement under seal and (b) granting them such other and further relief as is just.

Dated: New York, New York  
April 13, 2009

SKADDEN, ARPS, SLATE, MEAGHER  
& FLOM LLP

By: /s/ John Wm. Butler, Jr.  
John Wm. Butler, Jr.  
John K. Lyons  
Ron E. Meisler  
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- and -

By: /s/ Kayalyn A. Marafioti  
Kayalyn A. Marafioti  
Four Times Square  
New York, New York 10036

Attorneys for DPH Holdings Corp., et al.,  
Reorganized Debtors

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

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	:	
In re	:	Chapter 11
	:	
DPH HOLDINGS CORP., <u>et al.</u> ,	:	Case No. 05-44481 (RDD)
	:	
Reorganized Debtors.	:	(Jointly Administered)
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ORDER AUTHORIZING REORGANIZED DEBTORS TO FILE (I) A REDACTED  
VERSION OF REORGANIZED DEBTORS' SUPPLEMENTAL REPLY TO RESPONSES OF  
CERTAIN CLAIMANTS TO DEBTORS' OBJECTIONS TO PROOFS OF CLAIM NUMBERS  
14019, 14020, 14022, 14023, 14024, 14025, AND 14026 FILED BY ATUL PASRICHA AND  
PROOF OF CLAIM NUMBER 12147 FILED BY PAMELA GELLER AND  
(II) UNREDACTED VERISONS OF (A) THE SUPPLEMENTAL REPLY AND (B) A CERTAIN  
AGREEMENT BETWEEN DEBTORS AND ATUL PASRICHA UNDER SEAL

("DPH HOLDINGS – PASRICHA SEALING ORDER")

Upon the ex parte application, dated April 13, 2010 (the "Application"), of DPH Holdings Corp. and certain of its affiliated reorganized debtors (the "Reorganized Debtors") for an order under 11 U.S.C. § 107(b) and Fed. R. Bankr. P. 9018 authorizing Reorganized Debtors to file (I) a redacted version of Reorganized Debtors' Supplemental Reply To Responses Of Certain Claimants To Debtors' Objections To Proofs Of Claim Numbers 14019, 14020, 14022, 14023, 14024, 14025, And 14026 Filed By Atul Pasricha And Proof Of Claim Number 12147 Filed By Pamela Geller (the "Supplemental Reply") and (II) unredacted versions of the (A) Supplemental Reply and (B) a certain agreement between Debtors and Atul Pasricha (the "Agreement") under seal; and it appearing that pursuant to Fed. R. Bankr. P. 9018 no notice of the relief requested in the Application need be provided other than as set forth in the Application; and this Court having determined that the relief requested in the Application is in the best

interests of the Reorganized Debtors, their estates, their creditors, and other parties-in-interest;  
and after due deliberation thereon; and good and sufficient cause appearing therefor,

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED THAT:

1. The Application is GRANTED.
2. Pursuant to 11 U.S.C. § 107(b) and Fed. R. Bankr. P. 9018, the Reorganized Debtors are authorized to file (I) a redacted version of the Supplemental Reply and (II) unredacted versions of the (A) Supplemental Reply and (B) the Agreement under seal.
3. The unredacted Supplement Reply and the Agreement (and any information derived therefrom) shall remain confidential, be filed under seal, and shall be served on and made available only to (a) Atul Pasricha and his counsel and (b) such other parties as may be ordered by this Court after imposition of appropriate confidentiality restrictions or as may be agreed to in writing by the Reorganized Debtors and Mr. Pasricha.
4. This Court retains jurisdiction to enforce this order and the confidentiality of the Agreements, and the sensitive information contained therein, including the authority to impose sanctions on any person or entity which violates this order.

Dated: White Plains, New York  
April [●], 2009

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UNITED STATES BANKRUPTCY JUDGE

## **EXHIBIT J**

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John Wm. Butler, Jr.  
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Attorneys for DPH Holdings Corp., et al.,  
Reorganized Debtors

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Toll Free: (800) 718-5305  
International: (248) 813-2698

DPH Holdings Corp. Legal Information Website:  
<http://www.dphholdingsdocket.com>

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

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	:	
In re	:	Chapter 11
	:	
DPH HOLDINGS CORP., <u>et al.</u> ,	:	Case No. 05-44481 (RDD)
	:	
	:	(Jointly Administered)
Reorganized Debtors.	:	
	:	
-----	x	

NOTICE OF ADJOURNMENT OF CLAIMS OBJECTION HEARING WITH RESPECT  
TO DEBTORS' OBJECTION TO (A) PROOF OF CLAIM NO. 16591 FILED  
BY BRADLEY A. BENNETT AND BARBARA R. BENNETT

("NOTICE OF ADJOURNMENT OF SUFFICIENCY  
HEARING AS TO BENNETT CLAIM")

PLEASE TAKE NOTICE that Delphi Corporation and certain of its subsidiaries and affiliates, debtor and debtors-in-possession in the above-captioned cases (f/k/a In re Delphi Corporation, et al.) (collectively, the "Debtors") objected to proof of claim 16591 (the "Claim") filed by Bradley A. Bennett and Barbara R. Bennett (the "Claimants").

PLEASE TAKE FURTHER NOTICE that on October 6, 2009, the Debtors substantially consummated the First Amended Joint Plan Of Reorganization Of Delphi Corporation And Certain Affiliates, Debtors And Debtors-In-Possession, As Modified (the "Modified Plan"), which had been approved by the United States Bankruptcy Court for the Southern District of New York pursuant to an order entered on July 30, 2009 (Docket No. 18707), and emerged from chapter 11 as DPH Holdings Corp. and its affiliated reorganized debtors (the "Reorganized Debtors").

PLEASE TAKE FURTHER NOTICE that Article 9.6(a) of the Modified Plan provides that "[t]he Reorganized Debtors shall retain responsibility for administering, disputing, objecting to, compromising, or otherwise resolving all Claims against, and Interests in, the Debtors and making distributions (if any) with respect to all Claims and Interests." Modified Plan, art. 9.6(a).

PLEASE TAKE FURTHER NOTICE that on March 25, 2010, the Reorganized Debtors filed the Notice Of Sufficiency Hearing With Respect To Debtors' Objection To Proofs Of Claim Nos. 15584, 15586, 15587, 15588, 15590, 15591, 15592, 15593, 15594, And 15595<sup>1</sup> (Docket No. 19726) (the "Sufficiency Hearing Notice") scheduling a sufficiency hearing (the

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<sup>1</sup> Although proof of claim number 16591 was not listed on the title of the Second Sufficiency Hearing Notice, proof of claim number 16591 was listed on the exhibit and the holders of the claim received proper notice. See Amended Affidavit Of Service Of Stefanie C. Gardella re: Documents Served On March 25, 2010 [Docket Nos. 19725, 19726, 19727, 19728, 19729, 19730, 19731, 19732, 19733, 19734, 19735, 19736, and 19737] (Docket No. 19790).

"Sufficiency Hearing") for April 23, 2010,<sup>2</sup> at 10:00 a.m. (prevailing Eastern time) in the United States Bankruptcy Court for the Southern District of New York, 300 Quarropas Street, Room 118, White Plains, New York 10601-4140 to address the legal sufficiency of each of the Claims and whether each Claim states a colorable claim against the asserted Debtor.

PLEASE TAKE FURTHER NOTICE that pursuant to paragraph 9(a)(ii) of the Order Pursuant To 11 U.S.C. § 502(b) And Fed. R. Bankr. P. 2002(m), 3007, 7016, 7026, 9006, 9007, And 9014 Establishing (i) Dates For Hearings Regarding Objections To Claims And (ii) Certain Notices And Procedures Governing Objections To Claims, entered December 7, 2006 (Docket No. 6089) (the "Claims Objection Procedures Order") and the Order Pursuant To 11 U.S.C. §§ 105(a) And 503(b) Authorizing Debtors To Apply Claims Objection Procedures To Address Contested Administrative Expense Claims entered October 22, 2009 (Docket No. 18998) (the "Administrative Claims Objection Procedures Order"), the Sufficiency Hearing, with respect to proof of claim number 16591, is hereby adjourned without date, subject to the Reorganized Debtors' right to re-notice the claimant and/or assignee, as applicable, in accordance with the procedures set forth in the Claims Objection Procedures Order and the Administrative Claims Objection Procedures Order.

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<sup>2</sup> Pursuant to the Sufficiency Hearing Notice, filed March 25, 2010, the Sufficiency Hearing was scheduled for April 22, 2010. Pursuant to direction of this Court, the Sufficiency Hearing was rescheduled for April 23, 2010 at 10:00 a.m. (prevailing Eastern time).



Dated: New York, New York  
April 13, 2010

SKADDEN, ARPS, SLATE, MEAGHER  
& FLOM LLP

By: /s/ John Wm. Butler, Jr.  
John Wm. Butler, Jr.  
John K. Lyons  
Ron E. Meisler  
155 North Wacker Drive  
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- and -

By: /s/ Kayalyn A. Marafioti  
Kayalyn A. Marafioti  
Four Times Square  
New York, New York 10036

Attorneys for DPH Holdings Corp., et al.,  
Reorganized Debtors

# **EXHIBIT K**

**Hearing Date and Time: April 23, 2010 at 10:00 a.m. (prevailing Eastern time)**  
**Supplemental Response Date and Time: April 21, 2010 at 4:00 p.m. (prevailing Eastern time)**

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 Ron E. Meisler

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 International: (248) 813-2698

DPH Holdings Corp. Legal Information Website:  
<http://www.dphholdingsdocket.com>

UNITED STATES BANKRUPTCY COURT  
 SOUTHERN DISTRICT OF NEW YORK

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	:	
In re	:	Chapter 11
	:	
DPH HOLDINGS CORP., <u>et al.</u> ,	:	Case Number 05-44481 (RDD)
	:	
	:	(Jointly Administered)
Reorganized Debtors.	:	
	:	
-----	x	

**REORGANIZED DEBTORS' SUPPLEMENTAL REPLY TO RESPONSE OF  
 CLAIMANT TO DEBTORS' OBJECTIONS TO ADMINISTRATIVE  
 EXPENSE CLAIM NUMBERS 16898 AND 18740 FILED BY GARY L. COOK**

**("SUPPLEMENTAL REPLY REGARDING CERTAIN  
 CLAIMS FILED BY GARY L. COOK")**

DPH Holdings Corp. and certain of its affiliated reorganized debtors in the above-captioned cases (together with DPH Holdings Corp., the "Reorganized Debtors") hereby submit the Reorganized Debtors' Supplemental Reply To Responses Of Claimant To Debtors' Objections To Administrative Expense Claim Numbers 16898 And 18740 Filed By Gary L. Cook (the "Supplemental Reply"), and respectfully represent as follows:

A. Preliminary Statement

1. On October 8 and 14, 2005, Delphi Corporation and certain of its affiliates (the "Debtors"), predecessors of the Reorganized Debtors, filed voluntary petitions in this Court for reorganization relief under chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101-1330, as then amended (the "Bankruptcy Code").

2. On October 6, 2009, the Debtors substantially consummated the First Amended Joint Plan Of Reorganization Of Delphi Corporation And Certain Affiliates, Debtors And Debtors-In-Possession, As Modified (the "Modified Plan"), which had been approved by this Court pursuant to an order entered on July 30, 2009 (Docket No. 18707), and emerged from chapter 11 as the Reorganized Debtors.

3. On March 25, 2010, the Reorganized Debtors filed the Notice Of Sufficiency Hearing With Respect To Debtors' Objections To Proofs Of Claim Numbers 5268, 13270, 13838, 13880, 15585, 15589, 16925, 17081, 17773, 18049, 18087, 18604, 18740, 20017, And 20054 (Docket No. 19735) (the "Sufficiency Hearing Notice").

4. The Reorganized Debtors filed the Sufficiency Hearing Notice and are filing this Supplemental Reply to implement Article 9.6(a) of the Modified Plan, which provides that "[t]he Reorganized Debtors shall retain responsibility for administering, disputing, objecting to, compromising, or otherwise resolving all Claims against, and Interests in, the Debtors and

making distributions (if any) with respect to all Claims and Interests ...." Modified Plan, art. 9.6(a).

5. By the Sufficiency Hearing Notice and pursuant to the Order Pursuant To 11 U.S.C. § 502(b) And Fed. R. Bankr. P. 2002(m), 3007, 7016, 7026, 9006, 9007, And 9014 Establishing (i) Dates For Hearings Regarding Objections To Claims And (ii) Certain Notices And Procedures Governing Objections To Claims, entered December 7, 2006 (Docket No. 6089) (the "Claims Objection Procedures Order"), the Order Pursuant To 11 U.S.C. §§ 105(A) And 503(B) Authorizing Debtors To Apply Claims Objection Procedures To Address Contested Administrative Expense Claims, entered October 22, 2009 (Docket No. 18998), and the Eleventh Supplemental Order Pursuant To 11 U.S.C. § 502(b) And Fed. R. Bankr. P. 2002(m), 3007, 7016, 7026, 9006, 9007, And 9014 Establishing (i) Dates For Hearings Regarding Objections To Claims And (ii) Certain Notices And Procedures Governing Objections To Claims, entered April 5, 2010 (Docket No. 19776), the Reorganized Debtors scheduled a hearing (the "Sufficiency Hearing") on April 23, 2010<sup>1</sup> at 10:00 a.m. (prevailing Eastern time) in this Court to address the legal sufficiency of each proof of claim filed by the claimants listed on Exhibit A to the Sufficiency Hearing Notice and whether each such proof of claim states a colorable claim against the asserted Debtor.

6. This Supplemental Reply is filed pursuant to paragraph 9(b)(i) of the Claims Objection Procedures Order. Pursuant to paragraph 9(b)(ii) of the Claims Objection Procedures Order, if a Claimant wishes to file a supplemental pleading in response to this

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<sup>1</sup> Pursuant to the Sufficiency Hearing Notice, filed March 25, 2010, the Sufficiency Hearing was scheduled for April 22, 2010. Pursuant to direction of this Court, the Sufficiency Hearing was rescheduled for April 23, 2010 at 10:00 a.m. (prevailing Eastern time).

Supplemental Reply, the Claimant shall file and serve its response no later than two business days before the scheduled Sufficiency Hearing – i.e., by **April 21, 2010.**

B. Relief Requested

7. By this Supplemental Reply, the Reorganized Debtors request entry of an order disallowing and expunging certain administrative expense claims filed against the Debtors in these cases that assert prepetition liabilities.

C. The Claims Filed Against The Debtors

8. During the Reorganized Debtors' review of the administrative expense claims, the Reorganized Debtors determined that certain claims filed against the Reorganized Debtors assert liabilities or dollar amounts in connection with claims arising prior to October 8, 2005 that are not properly classified as administrative expenses for the purposes of section 503(b)(1) of the Bankruptcy Code. Accordingly, this Court should enter an order disallowing and expunging these administrative expense claims in their entirety.

9. On July 10, 2009, Gary L. Cook (the "Claimant"), a former employee of the Debtors, filed administrative expense claim number 18740 against Delphi Corporation ("Delphi"), asserting a claim in the amount of \$311,800.00 for worker's compensation benefits.

10. On June 26, 2009, Mr. Cook filed administrative expense claim number 16898 (together with administrative expense number 18740, the "Claims") asserting the same unsecured priority claim for \$644.00 dollars a week against Delphi Automotive Systems LLC ("DAS LLC").<sup>2</sup>

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<sup>2</sup> Although administrative expense claim number 16898 was objected to on the Forty-Sixth Omnibus Claims Objection (as defined below) and Mr. Cook filed a response to the Forty-Sixth Omnibus Claims Objection (Docket No. 19753), this Court has not adjudicated the claim into the claims procedures because the Forty-Sixth Omnibus Objection has not yet been before the Court. Nevertheless, the claim attaches the same documents  
(cont'd)

11. The Debtors' Objections To The Claim. On, November 6, 2009, the Reorganized Debtors objected to the Claim on the Debtors' Thirty-Ninth Omnibus Objection Pursuant To 11 U.S.C. § 503(b) And Fed. R. Bankr. P. 3007 To Expunge Certain Administrative Expense (I) Workers' Compensation Claims, (II) Workers' Compensation Claims Transferred To GM Buyers, And (III) Severance Claims (Docket No. 19045) ("Thirty-Ninth Omnibus Claims Objection"), on the grounds that the workers' compensation benefits are not reflected on the Reorganized Debtors' books and records.

12. On August 21, 2009, the Debtors' objected to administrative expense claim number 16898 on the Reorganized Debtors' Forty-Sixth Omnibus Objection Pursuant to 11 U.S.C. § 503(b) and Fed. R. Bankr. P. 3007 to (I) Disallow and Expunge Certain Administrative Expense (A) Books and Records Claims, (B) Methode Electronics Claims, (C) State Workers' Compensation Claims, (D) Duplicate State Workers' Compensation Claims, (E) Workers' Compensation Claims, (F) Transferred Workers' Compensation Claims, (G) Tax Claims, (H) Duplicate Insurance Claims, and (I) Severance Claims, (II) Disallow and Expunge (A) a Certain Duplicate Workers' Compensation Claim, (B) a Certain Duplicate Tax Claim, and (C) a Certain Duplicate Severance Claim, (III) Modify Certain Administrative Expense (A) State Workers' Compensation Claims and (B) Workers' Compensation Claims, and (IV) Allow Certain Administrative Expense Severance Claims (Docket No. 19711) ("Forty-Sixth Omnibus Claims Objection"), on the grounds that the workers' compensation benefits are not reflected on the Reorganized Debtors' books and records.

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*(cont'd from previous page)*

attached to administrative expense claim number 18740. For the sake of judicial efficiency, the Reorganized Debtors seek to disallow administrative expense number 16898 as well.

13. Response To The Debtors' Objection. On December 4, 2009, Mr. Cook filed a response to the Thirty-Ninth Omnibus Claims Objection (Docket No. 19148), in which he requests that this Court view his administrative claim as being the same as his prepetition claim.

14. On April 1, 2010, Mr. Cook filed a response to the Forty-Sixth Omnibus Claims Objection, in which he refers the Reorganized Debtors to administrative expense claim number 18740 (Docket No. 19753).

15. The Sufficiency Hearing Notice. Pursuant to the Claims Objection Procedures Order, the hearing on the Debtors' objection to the administrative expense claim number 18740 was adjourned to a future date. On March 25, 2010, the Reorganized Debtors filed the Sufficiency Hearing Notice with respect to administrative expense number 18740, among other proofs of claim and administrative expense claims, scheduling the Sufficiency Hearing.<sup>3</sup>

D. Claimant's Burden Of Proof And Standard For Sufficiency Of Claim

16. The Reorganized Debtors respectfully submit that the Claim fails to state a claim against the Debtors under rule 7012 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"). The Claimant has not proved any facts to support a right to payment by the Reorganized Debtors on behalf of the Debtors. Accordingly, the Reorganized Debtors' objections to the Claim should be sustained and the Claim should be disallowed and expunged in its entirety.

17. The burden of proof to establish a claim against the Debtors rests on the claimant and, if a proof of claim does not include sufficient factual support, such proof of claim

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<sup>3</sup> As stated above, although administrative expense claim number 16898 was objected to on the Forty-Sixth Omnibus Claims Objection and technically not adjourned into the claims procedures, the claim attaches the same documents attached to administrative expense claim number 18740. For the sake of judicial efficiency, the Reorganized Debtors seek to disallow administrative expense number 16898 as well.



is not entitled to a presumption of prima facie validity pursuant to Bankruptcy Rule 3001(f). In re Spiegel, Inc., No. 03-11540, 2007 WL 2456626, at \*15 (Bankr. S.D.N.Y. August 22, 2007) (the claimant always bears the burden of persuasion and must initially allege facts sufficient to support the claim); see also In re WorldCom, Inc., No. 02-13533, 2005 WL 3832065, at \*4 (Bankr. S.D.N.Y. Dec. 29, 2005) (only a claim that alleges facts sufficient to support legal liability to claimant satisfies claimant's initial obligation to file substantiated proof of claim); In re Allegheny Int'l., Inc., 954 F.2d 167, 173 (3d Cir. 1992) (in its initial proof of claim filing, claimant must allege facts sufficient to support claim); In re Chiro Plus, Inc., 339 B.R. 111, 113 (Bankr. D.N.J. 2006) (claimant bears initial burden of sufficiently alleging claim and establishing facts to support legal liability); In re Armstrong Finishing, L.L.C., No. 99-11576-C11, 2001 WL 1700029, at \*2 (Bankr. M.D.N.C. May 2, 2001) (only when claimant alleges facts sufficient to support its proof of claim is it entitled to have claim considered prima facie valid); In re United Cos. Fin. Corp., 267 B.R. 524, 527 (Bankr. D. Del. 2000) (claimant must allege facts sufficient to support legal basis for its claim to have claim make prima facie case).

18. For purposes of sufficiency, this Court has determined that the standard of whether a claimant has met its initial burden of proof to establish a claim should be similar to the standard employed by courts in deciding a motion to dismiss under Bankruptcy Rules 7012 and 9014. See Transcript of January 12, 2007 Hearing (Docket No. 7118) (the "January 12, 2007 Transcript") at 52:24-53:1. Pursuant to that standard, a motion to dismiss should be granted "if it plainly appears that the nonmovant 'can prove no set of facts in support of his claim which would entitle him to relief.'" In re Lopes, 339 B.R. 82, 86 (Bankr. S.D.N.Y. 2006) (quoting Conley v. Gibson, 355 U.S. 41, 45-46 (1957)). Essentially, the claimant must provide facts that sufficiently support a legal liability against the Debtors.

19. This Court further established that the sufficiency hearing standard is consistent with Bankruptcy Rule 3001(f), which states that "a proof of claim executed and filed in accordance with these Rules shall constitute prima facie evidence of the validity and amount of the claim." Fed. R. Bankr. P. 3001(f) (emphasis added). Likewise, Bankruptcy Rule 3001(a) requires that "the proof of claim must be consistent with the official form" and Bankruptcy Rule 3001(c) requires "evidence of a writing if the claim is based on a writing." Fed. R. Bankr. P. 3001(a), (c). See January 12, 2007 Transcript at 52:17-22.

E. Argument Regarding The Claim

20. The Claim Is Not Entitled To Administrative Priority. On June 26, 2009 and July 10, 2009, Mr. Cook filed the Claims asserting an unsecured non-priority claim in the amount of \$311,800.00 against Delphi and \$644.00 per week against DAS LLC on account of alleged workers' compensation benefits. In each of his administrative expense claims, Mr. Cook attaches a Michigan Department of Consumer & Industry Services, Bureau of Workers' Disability Compensation Order, number 100803012, dated September 19, 2003 (the "Michigan Order"). The Michigan Order states that Mr. Cook was first injured March 4, 2001.

21. Courts have held that claims for workers' compensation claims arise on the date of injury. In re Olga Coal Co., 194 B.R. 741, 746 (Bankr. S.D.N.Y. 1996); See also In re Johns-Manville Corp., 57 Bankr. 680, 690 (Bankr. S.D.N.Y. 1986) (stating that the existence of a claim depends upon "when the acts giving rise to the alleged liability were performed . . ."); Leahy v. Collora (In re Leahy), 170 B.R. 10, 16 (Bankr. D. Me. 1994) (finding that "an employee's right to workers' compensation benefits . . . arises at the time of the compensable injury"); In re Lull Corp., 162 Bankr. 234, 241 (Bankr. D. Minn. 1993) (holding that an "employee's right to payment [of benefits], the Debtor's obligation to pay, and [the Fund's] obligation to pay when debtor does not all arise when the employee is injured pre-petition").

According to Mr. Cook's own administrative expense claims, the date of injury occurred prepetition. Therefore, the Claims are not properly classified as administrative expenses under section 503(b)(1) of the Bankruptcy Code.

22. Accordingly, the Reorganized Debtors assert that (a) Mr. Cook has not met his burden of proof to establish a claim against or interest in the Debtors, (b) administrative expense claim numbers 16898 and 18740 are not entitled to a presumption of prima facie validity pursuant to Bankruptcy Rule 3001(f), and (c) the Claims fails to state a claim against the Reorganized Debtors under Bankruptcy Rule 7012. Because Mr. Cook cannot provide facts or law supporting the Claims, the Thirty-Ninth Omnibus Claims Objection should be sustained as to administrative expense claim number 18740, the Forty-Sixth Omnibus Claims Objection should be sustained as to administrative expense claim number 16898, and the Claims should be disallowed and expunged in their entirety.

WHEREFORE the Reorganized Debtors respectfully request this Court enter an order (a) sustaining the objection with respect to the Claims, (b) disallowing and expunging the Claims in their entirety, and (c) granting such further and other relief this Court deems just and proper.

Dated: New York, New York  
April 13, 2010

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& FLOM LLP

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UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

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In re	:	Chapter 11
	:	
DPH HOLDINGS CORP., <u>et al.</u> ,	:	Case No. 05-44481 (RDD)
	:	
	:	(Jointly Administered)
Reorganized Debtors.	:	
	:	
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NOTICE OF RESCHEDULING OF  
THIRTY-SECOND CLAIMS HEARING

PLEASE TAKE NOTICE that the Thirty-Second Claims Hearing in the above-captioned cases, which is scheduled to occur on Thursday, April 22, 2010 at 10:00 a.m. (prevailing Eastern time) at the Hon. Charles L. Brieant Jr. Federal Building and Courthouse, 300 Quarropas

Street, Courtroom 118, White Plains, New York 10601-4140,<sup>1</sup> has been rescheduled for Friday, April 23, 2010 at 10:00 a.m. (prevailing Eastern time).

PLEASE TAKE FURTHER NOTICE that all corresponding deadlines shall shift in accordance with (a) the Order Pursuant To 11 U.S.C. § 502(b) And Fed. R. Bankr. P. 2002(m), 3007, 7016, 7026, 9006, 9007, And 9014 Establishing (I) Dates For Hearings Regarding Objections To Claims And (II) Certain Notices And Procedures Governing Objections To Claims, entered December 7, 2006 (Docket No. 6089) or (b) the Administrative Claims Order Pursuant To 11 U.S.C. §§ 105(a) And 503(b) Authorizing Debtors To Apply Claims Objection Procedures To Address Contested Administrative Expense Claims, entered October 22, 2009 (Docket No. 18998), as applicable.

Dated: New York, New York  
April 13, 2010

SKADDEN, ARPS, SLATE, MEAGHER  
& FLOM LLP

By: /s/ John Wm. Butler, Jr.  
John Wm. Butler, Jr.  
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<sup>1</sup> See Tenth Supplemental Order Pursuant To 11 U.S.C. § 502(b) And Fed. R. Bankr. P. 2002(m), 3007, 7016, 7026, 9006, 9007, And 9014 Establishing (I) Dates For Hearings Regarding Objections To Claims And (II) Certain Notices And Procedures Governing Objections To Claims, entered January 25, 2010 (Docket No. 19358).

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Hyundai Motor Company	Attn Jason R Erb Esq Senior Counsel	10550 Talbert Ave		Fountain Valley	CA	92708-6031
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# **EXHIBIT O**

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Delphi Corporation  
Special Parties

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Pg 159 of 171  
Delphi Corporation  
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Delphi Corporation  
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# **EXHIBIT T**

Pg 167 of 171  
Delphi Corporation  
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